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The new world of the World Wide Web: Internet liability issues
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The new world of the World Wide Web: Internet liability issues

ABSTRACT: What we are seeing with transactions conducted over the Internet is an effort to take a new medium of communication and apply old legal concepts...

... infringement, patent infringement, invasion of privacy, etc. apply when those offenses are conducted over the Internet ? The answer is substantially "yes," but with some important differences. The results are illustrative of...
TEXT: The Internet has created new means of communication and information distribution. Will the old law keep up with the new technology?

IN THE brave new world of the Internet , the liability and litigation issues fall under these categories:

* jurisdictional,

* intellectual property ,

* defamation,

* privacy, and

* legislation.

A. Jurisdictional Issues

1. Type of Website

Rules for establishing jurisdiction over defendants in foreign states or countries based on an Internet presence are finally settled to some degree. As the law currently stands, jurisdiction over website hosts depends in large part on the type of site at issue.

The first significant case to address personal jurisdiction and the Internet was the 1996 case of CompuServe Inc. v. Patterson.1 Decided by the Sixth Circuit, CompuServe has become the cornerstone of Internet jurisdictional law regarding "active" websites. In that case, the defendant, based in Texas, specifically targeted...

... v. King,3 in which the Second Circuit determined that an entirely passive Missouri-based website , one that merely advertised goods or services, was not sufficient to impose New York personal...

...Investments Inc.5

Between these two extremes lies a range of cases in which the website was neither solely passive nor solely active. Perhaps the site listed a toll-free number...

... the site. In Cybersell Inc. v. Cybersell Inc.,6 the Ninth Circuit held

that a website that allowed visitors to leave names and contact information was not active enough to warrant...
... the alleged intent to extort money from the plaintiff. The court ruled that while the website itself may not have been active, the webmaster's intent in creating the site was...

...jurisdiction, finding that the mere existence of a tollfree number on an otherwise completely passive website was not sufficient to warrant imposing the long-arm statute. But in Inset Systems v...

... the defendant company solicited business in Connecticut using the toll-free number posted on its website .

2. E-mail

E-mail can be a contributing factor in finding personal jurisdiction over ...

...enough if it is used merely as a way of contacting the company operating the website . Even in a case in which a majority of the business was conducted via e...

...did not impose jurisdiction.10 However, if the number of e-mails sent to a party is large, courts may be more willing to impose jurisdiction.
3. Actual v. Potential Contact

Some courts have focused on actual usage of the website to determine jurisdiction, while others have only looked at the potential of their residents to access the website . In Maritz v. CyberGold Inc.,11 a federal district court in Missouri found that jurisdiction...

...in Connecticut potentially could access the site.

Courts also are looking at what combinations of Internet and non-Internet contacts are made. Sometimes an individual's web presence is not sufficient to warrant imposition... from states or countries where that business would never want to appear in court.

B. Intellectual Property Issues

1. Copyrights

a. Publishing Rights

Disputes involving online publishing rights involve the competing interests ...
... of the law. Beginning in 1996, the SPA also went beyond software "pirates" to target Internet presence providers, such as Geocities, alleging that they were guilty of contributory copyright infringement and ...

...personal gain.17

Even shareware, which is software distributed free of charge, often over the Internet , may be protected from "piracy" and unauthorized commercial exploitation under copyright law. In Storm Impact...

... the Month Club,18 a federal district court held, first, that shareware placed on the Internet for intentionally free distribution is protected by the Copyright Act, and second, that an express non-commercial distribution clause contained on shareware distributed for free on the Internet is valid and enforceable.

c. Audio Rights

The first case regarding music distribution on the Internet was Frank Music Corp. v. CompuServe Inc.19 Under a 1995 settlement, CompuServe agreed to pay the full mechanical royalty every time a song was downloaded through its network. Today, however, far more listeners can use audio-streaming to listen to music via the Internet . What ownership rights are being infringed, if any, remains a major issue.

Music distribution companies contend that every byte of sound played via the Internet is licensable and that every website that distributes it must pay a licensing fee. Stepping away from the traditional mechanical royalty, however, companies streaming music over the Internet have developed percentage-based rates for calculating appropriate licensing fees.

Compromises were proposed by industry...

... full copy. The proposal was registered as a petition with the Copyright Office. This compromise, agreed to by representatives of songwriters, music publishers and record companies, states that 30-- second downloads...

... arising from the content and communications of another remain a concern for third parties, including Internet service providers (ISPs). Under the surviving provisions of the Communications Decency Act, ISPs are considered ...did any of the copying.
Many commentators believe that numerous core activities connected with the Internet expose participants on several possible grounds to claims arising from content and communications of third...

... of a site on a provider's system, usually to facilitate access by others.

Providing server space: Providing computer facilities on which third parties may post content of their choice.

Providing location tools: Providing hypertext or linking aids between sites and directories of Internet content.

e. Linking, Framing, and Meta-tags

Most of the cases involving alleged injury arising...

... allegedly making it appear as though users were ordering the tickets directly from the Microsoft website .25 This practice, known as "deep-linking," has garnered sharp criticism from certain members of...

...example, the news content from numerous on-line newspapers could be seen through the TotalNews website . In a lawsuit by the Washington Post Co. and several other news providers against TotalNews Inc., the plaintiffs claimed that TotalNews had "designed a parasite website ."26 The case settled, allowing TotalNews to link to the other sites but not within...

... cases are known as "invisible infringement" cases because meta-tags are the code behind a website . The website developer can put words into the code that will enable search engines to associate those words with the site. Meta-tags are crucial to the functioning environment of the Internet . However, problems arise when individuals put another company's trademarked names into the meta-tags...

... Advanced Concepts,30 a violation of the Lanham Act was alleged based on metatag usage.

Website owners who wish to protect their content can employ new technologies and practices specifically designed...

...Commentators have suggested various strategies:

Screen web pages initially. Before incorporating a hyperlink into a website , screen the contents of those pages. Look for indications that the material may be unauthorized...

... pages this is an extremely time consuming process. Software programs that automatically notify the web host when links have been changed can assist in this process.

Establish a notification procedure. Create...Hotmail Corp. v. Van$ Money Pie Inc.32 was the first judicial pronouncement that "clickwrap" agreements are valid and enforceable.

Companies should draft careful clickwrap agreements to address common areas of potential liability or dispute. In a property drafted click-wrap ...

... services being rendered or goods being provided should be described in detail. The contract should identify any limitations on the permitted use of any information or documents made available and should specifically set forth the customer's agreement as to the treatment of the company's copyright or other intellectual property rights. The contract should address the company's rights to use any personal information of...

...each page also is important.
g. Database Protection

One of the cutting-edge issues in Internet copyright law is the extent of protection available for database content. In Feist Publications v...

...to do so by the federal government. A domain name is the portion of an Internet net address that follows "www." Because registration of domain names is independent of trademark registration, trademark conflicts often arise. A committee of the Internet International Ad Hoc Committee was given the job of creating a final report on correcting...

... that "SLDs are capable of infringing trademark rights" and that "trademark owners have a legitimate interest , under national trademark law, in policing against infringement."

2. But registrars would not arbitrate disputes...

...trademark challengers to a very strict due diligence standard.

5. Applicants would be required to agree to jurisdiction and an agent for service of process.
6. There would be publicly posted...

...the norm. Most cases involve two companies, or individuals, both of whom have some legitimate interest in the name or mark. As of the end of 1998, more than 65 cases...

... federally registered trademarks for "mikasa." Another was "candyland. com," a case brought against a pornographic website under the famous mark dilution act.

Some domain name defendants have been successful in arguing...dilution is a common theory in domain name related trademark cases. In Hasbro Inc. v. Internet Entertainment Group Ltd.,36 "Candyland" was deemed to be a famous trademark associated with family...

...that the defendant's use lessened the capacity of the plaintiff's famous mark to identify and distinguish the plaintiff's goods.

The domain name registry also has been the target...

...Act has been utilized in an attempt to protect the "look and feel" of a website . Trade dress protection under Section 43(a) of the Lanham Act also may arguably serve as a "copyright substitute."

C. Defamation and the Internet

There are at least four key elements to most defamation causes of action: (1) a...

... regarding another individual or company, (2) an unprivileged communication of that statement to a third party , (3) a level of fault arguably amounting to at least negligence on the part of...

... liable for statements made by cyber gossip columnist Matt Drudge and carried on AOL's Internet site. The court stated that Congress has conclusively made ISPs immune from tort liability stemming...

...bulletin board provider might produce a different result.

In a defamation case regarding a faulty Internet press release, a federal judge allowed Virginia's long-arm jurisdiction statute to apply against...

...reasonably known that the press releases would be received in Virginia."
D. Privacy and the Internet

1.Spam

"Spam" is the Internet term used to describe unsolicited e-mails. It has been defined as any e-mail...

... does not know personally. Spam is facilitated by on-line collection of personal data through Internet use. Online user information is collected and collated, and lists with certain demographics are then...provide greater copyright protection by amending the provisions governing criminal copyright infringement. Designed to dissuade Internet software piracy, the act imposes criminal sanctions on infringers who reproduce or distribute one or...

...at more than $1,000. It also was intended to reverse a decision that an Internet software pirate could not be held because he did not commit the infringement for any...

... sellers of legitimate works or goods and services affected by the infringing conduct, holders of intellectual property rights, and their legal representatives. There are new penalties for unauthorized fixation and trafficking of...

... This act combines anti-circumvention provisions designed to implement the treaties associated with the World Intellectual Property Organization. It creates a new Section 512 of the Copyright Act that limits service providers' liability in five general categories of activity: (1) the conduit function, (2) server caching, (3) storing stationary material on a provider's server , (4) location tools and (5) good faith "take downs" of allegedly infringing material. Service providers...

... from all monetary relief for direct, vicarious and contributory infringement.

3. Proposed Legislation-106th Congress

Internet -related bills are proliferating in Congress. While many seek to regulate the Internet and Internet -related activities, it is notable that many others seek to prohibit regulation of the Internet to preserve its stellar growth. To highlight the current areas of Internet -related

legislative activity, the following will provide a list of some of the more notable.

a. Senate and Senate-House Bills

* S. 97, H.R. 368, the Children's Internet Protection Act, mandates use of filtering software for schools and libraries receiving "e-rate" funding);

* S. 328 makes permanent the moratorium on the imposition of taxes on the Internet ;

* S. 393, the Congressional Openness Act, provides Internet access to Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and joint committee documents;

* S. 637, H.R. 1245, the Internet Gun Trafficking Act of 1999, regulates the sale of firearms over the Internet ;

* S. 692, the Internet Gambling Prohibition Act, prohibits gambling over the Internet ;

* S. 699, H.R. 612, the Telemarketing Fraud and Seniors Protection Act, protects the public, especially seniors, against telemarketing fraud and fraud over the Internet ;

* S. 759, the Inbox Privacy Act of 1999, regulates transmission of unsolicited commercial e-mail...and sell encryption products as a tool for protecting their online privacy;

* S. 1043, the Internet Regulatory Freedom Act of 1999, deprives the Federal Communications Commission of jurisdiction to set standards for the Internet ;

* S. 1255, H.R.3028, the Anticybersquatting Consumer Protection Act / Trademark Cyberpiracy Prevention Act, is...

... Name Piracy Prevention Act of 1999, prohibits "the bad-faith registration, trafficking or use of Internet domain names that are identical to, confusingly similar to, or dilutive of distinctive trademarks or service marks";

* S. 1545, the Neighborhood Children's Internet Protection Act, requires schools and libraries receiving universal service assistance to install systems or implement acceptable use policies for blocking or filtering Internet access to matter inappropriate for minors, requires a study of available Internet blocking or filtering software); and

* S. 1901, the Privacy Protection Study Commission Act of 1999...

...and E-FOIA.

b. House Bills

House bills in the 106th Congress relating to the Internet include:

* H.R. 87 prohibits Internet and mail order sales of ammunition without a license to deal in firearms; requires licensed...

...of 1,000 rounds of ammunition to a single person;

* H.R. 313, the Consumer Internet Privacy Protection Act of 1999, regulates the use by interactive computer services of personally identifiable information provided by subscribers; H.R. 367, the Social Security On-line Privacy Protection Act...

...of government documents;
* H.R. 654, the Congressional Research Accessibility Act, makes available on the Internet , for purposes of access and retrieval by the public, certain information available through the Congressional Research Service website ;

* H.R. 850, the Security and Freedom Through Encryption Act, affirms the right to use...

...sell encryption, liberalizes export controls, and prohibits domestic key recovery;

* H.R. 896, the Childrens' Internet Protection Act, requires schools and libraries to use filtering or blocking technology on computers with Internet access to remain eligible for universal service assistance;

* H.R. 1685, H.R. 1686, the Internet Growth and Development Act / Internet Freedom Act, relaxes regulations on local phone companies for Internet traffic while requiring them to provide broadband service where possible; prohibits local phone companies from...

... commercial electronic mail in contravention of the provider's posted policy; prohibits unauthorized use of Internet domain names;
* H.R. 2560, the Child Protection Act of 1999, requires public schools and ...

...install software to protect children from obscenity;

* H.R. 2616, the Encryption for the National Interest Act, clarifies the policy of the United States with respect to the use and export...

... 3113, the Unsolicited Electronic Mail Act of 1999, is designed "to protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail";

* H.R. 3125, the Internet Gambling Prohibition Act of 1999, prohibits gambling over the Internet ; and

* H.R. 3321, the Electronic Privacy Bill of Rights Act, requires privacy disclosures on...

...consumers to access their own personal data.

5. International Legislation-WIPO Conference Treaties
The World Intellectual Property Organization, an intergovernmental organization with headquarters in Geneva, is responsible for the promotion of international standards for protection of intellectual property throughout the world.45 In 1996, a hotly contested WIPO conference resulted in the promulgation...new bottles, and both are preserved."

What we are seeing with transactions conducted over the Internet is an effort to take a new medium of communication and apply old legal concepts ...

... infringement, patent infringement, invasion of privacy, etc. apply when those offenses are conducted over the Internet ? The answer is substantially "yes," but with some important differences, as noted above.

The results...

... the firm in its San Jose office and concentrates in corporate law and commercial and intellectual property litigation. He was educated at Stanford University (B.A. 1979) and Santa Clara University (M...

... 1991) and the University of San Diego Law School (J.D. 1998). He concentrates in intellectual property and business litigation.
1. 89 F.3d 1257 (6th Cir. 1996).

2. See Zippo Mfg...

...1997).

25. Although this case settled on officially undisclosed terms, some reports suggested that Microsoft agreed to discontinue its practice of "deep linking" to the Ticketmaster site. The text of Ticketmaster...

...legal issues attendant to framing and linking, see Linking and Liability <http:// www.bitlaw.com/ internet /linking.html> (visited Dec. 2, 1999).

26. The text of the complaint in Washington Post...the World Wide Web and the new world of litigation arising from use of the Internet . The first segment was published in the October 1999 issue of Defense Counsel Journal, page 497, and dealt with a basic introduction to the structure of the Internet and its participants.]

DESCRIPTORS: Internet ; ...

... Intellectual property ;
000101

10/3,KWIC/5 (Item 1 from file: 20)
DIALOG(R)File 20:Dialog Global Reporter

10034435 (USE FORMAT 7 OR 9 FOR FULLTEXT)
VirtualInternet.net - Proposed Placing, etc.
REGULATORY NEWS SERVICE
March 13, 2000
JOURNAL CODE: WRNS LANGUAGE: English RECORD TYPE: FULLTEXT
WORD COUNT: 6633

(USE FORMAT 7 OR 9 FOR FULLTEXT)

...move to the Official List * Placing of approximately #33 million of ordinary shares in Virtual Internet with institutional investors, raising approximately #27 million for the Company and approximately #6 million for ...

... shares to the Official List. * Placing is conditional upon, inter alia, the approval of Virtual Internet shareholders. Jason Drummond commenting said "We have already accomplished significant growth in the business over the last year, expanding our range of Internet services to business users and the international presence of the Group. The new funds will...

... a dominant provider of retail and wholesale domain-based services to businesses in Europe and Internet brand and trade mark protection services globally. "Virtual Internet has built a strong operational management team and we have a very capable and experienced board to take the business forward. Virtual Internet is well placed to benefit from the increasing demand from businesses for Internet services."
Enquiries:
... Director - Corporate Broking
Holborn Public Relations Tel: 0207 929 5599 David Bick John Bick
Virtual Internet is a leading European domain-based Internet services company offering solutions that enable businesses to communicate, sell products and protect their brands and trade marks on the Internet . The Group provides Internet domain name registration, e-mail, website hosting and electronic commerce services that enable business to be

undertaken on-line. In addition, the Group provides Internet brand and trade mark protection services to monitor the use and abuse of customers' brands...

...move to the Official List

Introduction

The board of directors of VirtualInternet.net plc ("Virtual Internet " or the "Company") announces that it intends to place approximately #33 million of ordinary shares...

... the admission of the ordinary share capital to the Official List, the approval of Virtual Internet 's shareholders in general meeting and the agreement relating to the Placing between, amongst others, the Company and Hoare Govett becoming unconditional in...

... will be contained in a shareholder circular (the "Circular") to be sent to all Virtual Internet shareholders, warrant holders and placees following the announcement of the Placing price.

Virtual Internet is a leading European domain-based Internet services company offering solutions that enable businesses to communicate, sell products and protect their brands and trade marks on the Internet . The Group provides Internet domain name registration, e-mail, website hosting and electronic commerce services that enable business to be undertaken on-line. In addition, the Group provides Internet brand and trade mark protection services to monitor the use and abuse of customers' brands and trade marks on-line.

Currently, the Group has over 45,000 active hosted or managed domains, of which approximately 20,000 have been registered or assumed under management since 31 October 1999. In the 12 months ended 29 February 2000, Virtual Internet provided brand and trade mark protection services to over 240 customers.

The Virtual Internet business was established in London in 1996 and has grown rapidly with further offices in...

... Whilst the majority of the Group's customers are small to medium sized enterprises, Virtual Internet has also provided services to larger corporate clients, over half of the FTSE 100 companies...

... l.c and Rolls-Royce plc. In addition the Group has provided services to other Internet companies including QXL.com plc and Last Minute Networks Limited ("lastminute.com"). The Group has...

... France, Cobalt Networks, Groupe Credit Mutuel, Level (3) Communications and Microsoft Networks.

Since June 1999, hosting surveys published in Internet Magazine indicate that Virtual Internet has consistently been one of the UK's fastest performing hosting companies, in terms of speed of transmission of data from the hosting server , and the Directors believe that the Group is at the forefront of Internet brand and trade mark protection.

History

Virtual Internet 's original business was established in 1996 by Jason Drummond, initially as a domain name...

...main function of a domain name registration company is to register names which represent unique Internet addresses and to allow such names to be propagated across the Internet . Subsequently, the Company expanded its product offering and is now involved directly in three main service areas: retail domain-based services; wholesale domain-based services; and Internet brand and trade mark protection services.

Virtual Internet has expanded its service offering and geographical coverage by a combination of organic growth, acquisitions and formation of strategic relationships. In September 1997, Virtual Internet Limited took a 34 per cent stake in VIS, a French company that was newly established to act as a domain-based services provider. In April 1999, Virtual Internet exercised an option to acquire the remaining 66 per cent of VIS for a consideration the Virtual Internet management team. VIS now provides the

full range of the Group's products and, according...

... contracts with AOL France and CompuServe France for domain name registration, e-commerce, web site hosting and e-mail services.

In January 1999, Virtual Internet Limited reversed into the Company (then named Charriol plc), which had been established to invest...

... Net Searchers' liabilities amounting to #200,000. Net Searchers was established in 1996. It provides intellectual property owners and their advisers with monitoring services on the Internet such as domain name searching, registrations and watching, tracking of intellectual property infringers, domain name reclaiming, Internet anti-piracy campaigns and copyright monitoring. The founders of Net Searchers, Nicholas Wood and Lorna...

... net of expenses. This geographic expansion is based on the Directors' belief that whilst the Internet is a global product, local markets are often best served by locally based sales and...

... in conjunction with acquiring established companies that provide services similar to those provided by Virtual Internet .

Virtual Internet has also sought to expand its business by way of strategic relationships with a number...

... its on-line automated registration systems for domain registration, e-commerce, e-mail and web hosting solutions. Usually, these services are marketed under the Virtual Internet brand, but occasionally they are marketed under the other party 's brand.

In August 1999, Virtual Internet announced that it had entered into a European co-location agreement with Level (3) Communications, the US company that is building one of the first international communications networks wholly using Internet protocol routing. Co-location enables the Group to connect its servers and those of its customers within Level (3) Communications' various network centres. This agreement will allow Virtual Internet to expand its co-location business using Level (3) Communications' network and data centre capacity...

... Group provides three principal products and services: retail domain-based services, marketed under the Virtual Internet brand name; wholesale domain-based services, marketed under a Virtual Internet brand or a customer's brand; and Internet brand and trade mark protection services, marketed under the Virtual Internet or Virtual Internet Net Searchers brand names.

Virtual Internet 's product portfolio encompasses different ranges of products and services to accommodate the individual needs...

... for which higher fees can be charged. It is these essential building blocks that Virtual Internet has chosen to focus on. Customers are able to select a combination of the Group...

...provides, predominantly to small and medium sized enterprises, comprise: domain name registration; e-mail services; website hosting ; e- commerce services; database hosting ; managed application services ("ASP") and co-location.

Domain name registration

There are three types of...

... definitive databases detailing all registered names and who has licence to use individual names.

Virtual Internet charges a fee to register a retail domain- name typically for a two year period...

... the domain name. As at 29 February 2000, the Group had over 45,000 active hosted or managed domains, of which approximately 20,000 have been registered or assumed under management...

... are independent of access provision, giving the customer its own e-mail address on the Internet (e.g. myname@mybusiness.co.uk). e-mails ... stored for retrieval or forwarded to a pre-defined location requested by the customer. Virtual Internet currently charges an annual fee for each e-mail address.

Website hosting

Website hosting is a service the Group provides to its customers which allows a customer to publish and maintain a website linked to its own domain name on a shared server .

The Group has three data centres situated in the UK, one in Australia, two in France and one in the US. Customers are charged for the website hosting service on the basis of a combination of storage, bandwidth and required applications. Typically, a fixed charge is payable in advance, for which customers obtain an agreed level of server space and data throughput. The Group is able to provide additional band-width and rack...

...customers.

e-commerce services

The Group provides the following e-commerce services:

* Payment gateways. Virtual Internet has negotiated and developed payment gateways or links with a number of banks to facilitate e-commerce payments. * Weboto.com/VI merchant. Virtual Internet has developed two entry level e-commerce products which enable businesses to maintain a database of products that can be purchased on-line. * Hosting support for a number of third party e-commerce applications. * Applications with multiple currency and language capability.

Database hosting

Web designers are increasingly creating active websites, incorporating live information typically from databases. In response, the Group now offers Oracle and Microsoft SQL ServerTM database services. Virtual Internet has also been operating as a member of the Oracle Partnership Programme.

Managed application services...

...servers and customers pay for access to and usage of these applications. In addition, Virtual Internet continues to evaluate opportunities to add additional application services to the Group's portfolio.

Dedicated...

...location

Certain customers have large sites or require specific applications and therefore require a dedicated server for their exclusive use. The Group provides the space, connectivity and support to the customer in running the server , and charges a fixed monthly fee which increases depending upon a customer's particular requirements...

...the Group's wholesale domain-based services fall into three areas:

* registry and domain services; * hosting application services; and * e-commerce services and solutions. Registry and domain services

The registration of...

... 31 January 2000, over 77 companies had been accredited as worldwide domain name registrars. Virtual Internet is one of these companies and the Group expects to trade as a gTLD registrar in April 2000. As a consequence, Virtual Internet in future will pay a significantly reduced fee for a two year registration period to...

... Solutions Inc., historically. The Directors believe that a number of benefits will accrue to Virtual Internet from its status as a gTLD registrar and believe that Virtual Internet 's registry services will:

* provide improved margins, for both new and renewed registrations; * give Virtual Internet competitive advantage in those countries where there are no or few accredited registrars; * provide an additional opportunity to sell services such as web- hosting , e-mail or e-commerce

solutions to its registry customers; and * give the Group the...

...thereby acting as a catalyst for the further acceleration of the Group's international growth. Hosting application services

Many companies want the ability to offer hosting and application services to their customers, but lack the required skills or infrastructure to deliver such services in-house. Virtual Internet can operate and manage this service. The Directors believe that this provides the Group with much broader access to customers than can be achieved directly and increases Virtual Internet 's ability to expand the Group's operations.

e-commerce services and solutions

Virtual Internet has developed a set of e-commerce services, such as payment gateways, and e-commerce...

... a computer software application that enables businesses to sell their products or services on the Internet . There are companies with large customer bases who wish to offer e-commerce services to...

... attractive terms than the customer would otherwise obtain by developing and operating the service themselves.

Internet brand and trade mark protection services

Whilst the Internet has provided businesses with many new opportunities for the potential expansion of their business, there...

... a number of perceived drawbacks, particularly associated with the relative lack of regulation on the Internet . In particular, by its nature, the Internet provides the opportunity for the geographically widespread abuse of corporate brands or trade marks. In per cent of responding organisations had experienced infringement of their intellectual property on-line, 78 per cent had suffered domain name infringement and 40 per cent had suffered copyright infringement on the Internet .

With the continuing growth of e-commerce, many companies are now focusing their marketing efforts...

...service.

The main protection issues arising in relation to brands and trade marks on the Internet include:

* the unauthorised use of names, logos or marks by third parties on websites who...

... registration. To meet these needs, the Group has established a range of integrated services in Internet naming and protection. The Group focuses on corporate naming and registration worldwide and specialises in the policing and monitoring the use of brands and trade marks on the Internet . The various services offered by the Group in these areas are:

* Global naming - Registering domain...

...management - Provision of various domain name services, including checks on ownership, monthly monitoring and renewals.

* Internet audits - An integrated service to identify where and how a customer, its brands and trade marks appear on the Internet .

* Brand patrol - Monitoring and reporting on the use of a customer's name, product, trade mark or logo on the web and in Internet discussion groups.

* Infringer tracking and anti-piracy campaigns - A specialist service to support customers in identifying infringements, those persons behind them and providing a platform for legal enforcement.

* Business and market intelligence - Provision of market surveys and specialist reports compiled from Internet information resources.

* Specialist services - Such as Net Searchers Music, offering searches for copyright infringement within...

... industry and information regarding sales of bootleg copies of performances by British artists on the Internet .

The Group charges for package services at a flat rate and for bespoke

products at...

...CBNC Rolls-Royce plc BMW Group AG Deutsche Bank AG Tesco plc

In addition, Virtual Internet is retained by a number of law firms to assist those firms in developing commercial and trade mark protection strategies for their respective clients, including helping in the identification of trade mark infringers. Virtual Internet has provided services to 17 out of the top 20 UK law firms as ranked...

... and via the acquisition of additional businesses and product offerings; * become a global leader of Internet brand and trade mark protection services; * establish additional data centres in appropriate locations to support...

...the Asia Pacific region. In order to achieve these objectives, the Group will concentrate on identifying , acquiring and developing further sales and marketing offices, similar to those recently opened in Australia...

... aware of numerous opportunities for expansion, principally via acquisition, no specific targets have currently been identified .

In tandem with the roll-out of the Group's sales and marketing operations, the...

...strategy. The main focus of research and development expenditure will be in the following areas:

* hosted products, such as Weboto.com and managed application services ("ASP"); * wholesale systems and platforms to...as does Netbenefit plc in the UK. The Directors believe that the growth of the Internet will continue to enable a large number of companies to operate within it, but that...

... offer a comparable range of services for example Cyveillance Inc in the United States offers intellectual property but not domain based services. The Directors believe that the Placing will further strengthen the...

...Benefit Trust (635,500) - - charge --------- ------- ------

Operating loss (4,385,469) (86,156) (27,518) Net interest payable (43,097) (42,621) (9,261) --------- ------- ------ Loss on ordinary activities before taxation (4,428...

...of proposed future growth.

Current trading and prospects

Currently, the Group has over 45,000 hosted or managed domains, of which approximately 20,000 have been registered or assumed under management since 31 October 1999. In the 12 months ended 29 February 2000, Virtual Internet provided brand and trade mark protection services to over 240 customers.

Current trading since the...

...and employees

Directors

William Slee (59) - Non-executive Chairman

William Slee became Chairman of Virtual Internet in February 2000. He has over 30 years' experience in international investment banking, having most...

...largest pension funds.

Jason Drummond (30) - Chief Executive Officer

Jason Drummond founded the original Virtual Internet business in 1996. He started Micromax his first venture, at the age of 15, distributing ...

... as Russia and Africa, and returned to the UK in 1995, prior to establishing Virtual Internet Limited.

Thomas Turcan (38) - Chief Operating Officer

Tom Turcan joined Virtual Internet in November 1999. Prior to this

he was Business Development Director at News International plc...

...from St Andrews University.

Jonathan Hamilton Wales (44) - Chief Financial Officer

Jonathan Wales joined Virtual Internet in February 2000. He was a senior partner at Wise and Co., a firm of...

... handling a range of corporate acquisitions, disposals and management buyouts. Jonathan first worked in the Internet industry in 1997 when he became the Partner responsible for the affairs of Virtual Internet Limited , and was involved in a range of acquisition work on that company's behalf...

...Accountants in England and Wales.

Frederick Mostert (40) - Non-executive Director

Frederick Mostert joined Virtual Internet in February 2000. He is a widely published international expert in trademarks and intellectual property and currently serves on the Industry Advisory Commission of the World Intellectual Property Organisation in Geneva. He is the Intellectual Property Counsel and executive director of Richemont SA which includes Cartier, Montblanc, Alfred Dunhill and Van...

...qualified, non-executive director in due course.

Senior management

Giovan Grillo (28) - General Manager, Virtual Internet Italy

Giovan Grillo joined Virtual Internet in May 1999 to set up Virtual Internet Italy. Prior to this, he set up an Italian ISP based in London, specialising in domain name registration and web hosting services. He researched Twentieth Century International Trade Relations at the University of Venice, University College London and UCLA.

Richard Smith (32) - General Manager, Virtual Internet Australia

Richard Smith joined Virtual Internet in September 1999. Prior to this, he was head of Strategic Marketing at AOL Bertelsmann Online Europe. Richard has worked in companies delivering Internet technologies starting at The Instruction Set, in 1989 and then onto Oracle, Microsoft, and Unipalm...

...is a member of the Chartered Institute of Marketing.

Douglas Teggin (33) - Director General, Virtual Internet France

Douglas Teggin has worked within the Internet and IT fields in France since 1994. He founded Virtual Internet France in partnership with Virtual Internet in 1997. Prior to arriving in France in 1993, he studied computer science and worked in the IT industry in South Africa.

Nicholas Wood (41) - Managing Director, Virtual Internet Net Searchers

Nicholas Wood joined Virtual Internet upon the acquisition of Net Searchers in April 1999. Prior to this he worked in...

... The Directors believe that admission to the Official List will promote further awareness of Virtual Internet 's name and its brands, both in the UK and overseas and provide the Company...

... ability to attract new clients and compete for acquisition opportunities.

Since January 1999, when Virtual Internet reversed into Charriol plc, the Group has expanded rapidly. In April 1999, the Company acquired...
...a global leader in its core services; being retail and wholesale domain-based services and Internet brand and trade mark protection services. In order to achieve this, the Group intends to concentrate on expanding its network of sales and marketing offices. Virtual Internet also intends to acquire or establish new service operations, which will provide technical support and...

...intend to spend approximately:

* #3.0m on the Group's infrastructure, including new web site hosting equipment; * #1.5m to fund the costs of additional administration, sales

and technical staff; * #3...

...used for acquisition opportunities. It is expected that these funds will be used principally in identifying , acquiring and developing new businesses in the Group's target markets of Europe, the Asia...

... by way of acquisition and strategic investment. In the event that such transactions occur, Virtual Internet will utilise its cash, bank facilities and/or its equity as consideration.

The Placing

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The new world of the World Wide Web: Internet liability issues
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ABSTRACT: What we are seeing with transactions conducted over the Internet is an effort to take a new medium of communication and apply old legal concepts to it. Do the old concepts that apply to transactions on paper, such as liable, trademark infringement, patent infringement, invasion of privacy, etc. apply when those offenses are conducted over the Internet? The answer is substantially "yes," but with some important differences. The results are illustrative of the genius of the common law and its ability to adapt old doctrines to new and changed circumstances, while maintaining a continuum with the best traditions of the past.

TEXT: The Internet has created new means of communication and information distribution. Will the old law keep up with the new technology?
IN THE brave new world of the Internet, the liability and litigation issues fall under these categories:

* jurisdictional,

* intellectual property,

* defamation,

* privacy, and

* legislation.

A. Jurisdictional Issues

1. Type of Website

Rules for establishing jurisdiction over defendants in foreign states or countries based on an Internet presence are finally settled to some degree. As the law currently stands, jurisdiction over website hosts depends in large part on the type of site at issue.
The first significant case to address personal jurisdiction and the Internet was the 1996 case of CompuServe Inc. v. Patterson.1 Decided by the Sixth Circuit, CompuServe has become the cornerstone of Internet jurisdictional law regarding "active" websites. In that case, the defendant, based in Texas, specifically targeted and solicited business in the purchaser's state, Ohio. The court determined that the defendant's active conduct toward that state was sufficient to create personal jurisdiction. Numerous courts since then have followed this ruling.2

On the opposite end of the spectrum is Bensusan Restaurant Corp. v. King,3 in which the Second Circuit determined that an entirely passive Missouri-based website, one that merely advertised goods or services, was not sufficient to impose New York personal jurisdiction on the webmaster residing in Missouri. The limitation for "passive" websites has been followed in Blackburn v. Walker Oriental Rug Galleries4 and SF Hotel Co. v. Energy Investments Inc.5

Between these two extremes lies a range of cases in which the website was neither solely passive nor solely active. Perhaps the site listed a toll-free number, or visitors to the site could input their addresses to receive more information on the products being sold but could not purchase them through the site. In Cybersell Inc. v. Cybersell Inc.,6 the Ninth Circuit held that a website that allowed visitors to leave names and contact information was not active enough to warrant imposing personal jurisdiction on the site owner. However, in 1998, a year later, the Ninth Circuit found jurisdiction in Panavision International L.P. v. Toeppen,7 in which the defendant purposefully registered the plaintiff's trademarked name as a domain name, with the alleged intent to extort money from the plaintiff. The court ruled that while the website itself may not have been active, the webmaster's intent in creating the site was designed specifically to cause harm in California and thus personal jurisdiction over him could be found in that state.

The significance of toll-free telephone numbers posted on websites apparently depends on whether the numbers are given with the intent to solicit business from users in a specific state or whether they are merely informational. In Shapiro v. Santa Fe Gaming Corp.,8 an Illinois federal district court refused to allow jurisdiction, finding that the mere existence of a tollfree number on an otherwise completely passive website was not sufficient to warrant imposing the long-arm statute. But in Inset Systems v. Instruction Set Inc.,9 the Connecticut federal district court determined that imposing jurisdiction was appropriate after the defendant company solicited business in Connecticut using the toll-free number posted on its website.

2. E-mail

E-mail can be a contributing factor in finding personal jurisdiction over an outof-state defendant, but it is unlikely that e-- mail alone will be enough if it is used merely as a way of contacting the company operating the website. Even in a case in which a majority of the business was conducted via e-mail, the court did not impose jurisdiction.10 However, if the number of e-mails sent to a party is large, courts may be more willing to impose jurisdiction.

3. Actual v. Potential Contact

Some courts have focused on actual usage of the website to determine jurisdiction, while others have only looked at the potential of their residents to access the website. In Maritz v. CyberGold Inc.,11 a federal district court in Missouri found that jurisdiction was proper because 131 residents of Missouri actually had accessed the site. On the other hand, in Inset Systems, the Connecticut federal district court granted jurisdiction, at least in part, because 10,000 users in Connecticut potentially could access the site.

Courts also are looking at what combinations of Internet and non-Internet contacts are made. Sometimes an individual's web presence is not sufficient to warrant imposition of long-arm jurisdiction, but when viewed as only one part of that defendant's contact with a state, there might be sufficient reason to apply jurisdiction. In Blumenthal v. Drudge,12 the federal district court in the District of Columbia found jurisdiction over a California-based defendant in part because he also sent and received e-mail and solicited information from individuals within the court's jurisdiction. In Hall v. LaRonde," a contract was made via e-mail between two parties in different states, California and New York. The California Court of Appeals determined that the minimum contacts required to assert jurisdiction were met, based on the content of the e-mails and the intent of the parties to create a business relationship.

4. General Jurisdiction

Specific jurisdiction is not the only long-arm jurisdiction that can be

applied to companies or individuals with a web presence. If a company has sufficient contacts with individuals in a state, the court can find general jurisdiction and subject that defendant to suit in a forum on any cause of action. It is likely that, as more and more companies routinely do the majority of their businesses online, courts may be more attuned to imposing general jurisdiction.14

5. Avoiding Jurisdiction

It is important that businesses understand that personal jurisdiction can be found based on web presence alone. To protect themselves, companies must include clear choice of law and forum selection clauses in every contract, whether on paper or online. Companies should refuse to do business with, and even install filters to block business from, individuals from states or countries where that business would never want to appear in court.

B. Intellectual Property Issues

1. Copyrights

a. Publishing Rights

Disputes involving online publishing rights involve the competing interests of publishers and authors over content ownership and royalty rights. One common area of dispute pertains to ownership rights when content is subsequently published in electronic format. Addressing this issue, the U.S. District Court for the Southern District of New York in Tasini v. New York Times,15 held that the word "revise" in the Copyright Act of 1976 permits some electronic publication and databases on CD-ROMs of print publications without the consent of or payment to the original author.

Tasini did impose some limitations. Publishers are only permitted to reproduce a particular article as part of a revised version of the collective work in which the article originally appeared. They are not allowed to create a new anthology or publish the work in an entirely different magazine. The court was unsympathetic to pleas from the authors claiming the decision would grant the publishers an unfair windfall.

b. Piracy

The Software Publishers Association is an industry organization aggressively combating software piracy on the web through litigation and other means. That association and related companies often are accused of bullying tactics and of disseminating misinformation about the state of the law. Beginning in 1996, the SPA also went beyond software "pirates" to target Internet presence providers, such as Geocities, alleging that they were guilty of contributory copyright infringement and demanding that they adopt strict monitoring programs to avoid further alleged violation.

In 1997, Congress enacted the No Electronic Theft Act (NET Act). It is designed to close the so-called "LaMacchia loophole," a reference to case in which a court ruled that in the absence of a profit motive, the Copyright Act did not impose liability on a college student who ran an online pirated software exchange." The NET Act amends the Copyright Act to provide criminal penalties for significant infringement, even where there is no personal gain.17

Even shareware, which is software distributed free of charge, often over the Internet, may be protected from "piracy" and unauthorized commercial exploitation under copyright law. In Storm Impact Inc. v. Software of the Month Club,18 a federal district court held, first, that shareware placed on the Internet for intentionally free distribution is protected by the Copyright Act, and second, that an express non-commercial distribution clause contained on shareware distributed for free on the Internet is valid and enforceable.

c. Audio Rights

The first case regarding music distribution on the Internet was Frank Music Corp. v. CompuServe Inc.19 Under a 1995 settlement, CompuServe agreed to pay the full mechanical royalty every time a song was downloaded through its network. Today, however, far more listeners can use audio-streaming to listen to music via the Internet. What ownership rights are being infringed, if any, remains a major issue.

Music distribution companies contend that every byte of sound played via the Internet is licensable and that every website that distributes it must pay a licensing fee. Stepping away from the traditional mechanical royalty, however, companies streaming music over the Internet have developed percentage-based rates for calculating appropriate licensing fees.

Compromises were proposed by industry representatives regarding such issues as royalties and what constitutes a sample rather than a full copy. The proposal was registered as a petition with the Copyright Office. This compromise, agreed to by representatives of songwriters, music publishers and record companies, states that 30-- second downloads can be performed without triggering any mechanical licensing obligations from the copyright holder to the original author or from the author of the underlying composition to the holder of the copyright.

d. Contributory Infringement and Vicarious Liability

Despite recent legislation, claims for contributory infringement and vicarious liability arising from the content and communications of another remain a concern for third parties, including Internet service providers (ISPs). Under the surviving provisions of the Communications Decency Act, ISPs are considered common carriers, like telephone companies. Unlike those companies, however, ISPs often regulate their users. And, while software industry groups, such as the SPA, demand that ISPs closely regulate their users, case law seems to warn that once an ISP starts regulating the content of its subscribers, the risk of liability increases.

In Religious Technology Center v. Netcom On-Line Communication Services,20 a California federal district court determined that Netcom could not be held vicariously liable for infringement committed by its subscribers because Netcom, like most ISPs, did not have control over its subscribers and did not receive any financial benefits from the infringing postings. But a district court in New York in Artists Music Inc. v. Reed Publishing (USA) Inc.,21 stated that the mere opportunity to supervise the infringer's activities, without more, could not support a finding of vicarious liability.

The court in Religious Technology Center held that an ISP could be held liable if it gained knowledge of the infringement and failed to take simple, reasonable and available steps to prevent further acts of known infringement. Even though the ISP in that case stopped short of actual inducement, the court determined that it could be liable for contributory infringement.

In Sega Enterprises Ltd. v. MAPHIA,22 a video game manufacturer sued a bulletin board system (BBS) and its system operator for infringement after it discovered that its proprietary games were being uploaded and downloaded to and from the MAPHIA BBS. A California federal district court concluded that since the BBS operator did not upload or download the files himself, he could not be held liable for direct infringement. But since the operator knew of the infringing actions and substantially participated by inducing, causing or materially contributing to the infringing conduct, the operator's conduct amounted to a prima facie case of contributory copyright infringement.

In Playboy Enterprises Inc. v. Frena,23 a BBS operator was held directly

liable for copyright infringement when the bulletin board displayed and allowed downloads of pictures copyrighted by Playboy. The Florida federal district court ruled that there was "irrefutable evidence" of direct copyright infringement, and it stated that it did not matter if the BBS operator himself did any of the copying.

Many commentators believe that numerous core activities connected with the Internet expose participants on several possible grounds to claims arising from content and communications of third parties:

Conduit activities: Sending the communications initiated by others across a provider's system without altering their the content.

Caching sites: Storing a site or a portion of a site on a provider's system, usually to facilitate access by others.

Providing server space: Providing computer facilities on which third parties may post content of their choice.

Providing location tools: Providing hypertext or linking aids between sites and directories of Internet content.

e. Linking, Framing, and Meta-tags

Most of the cases involving alleged injury arising from linking, framing, and meta-tags have been based on purported causes of action both under trademark and copyright infringement concepts.

Hyperlinks, or links, enable the user to jump from one site to another with a click on a designated word or graphic. The World Wide Web includes these links, and they create a link between all of the information available on the web.

Cases involving hyperlinking are brought under numerous theories, including unfair competition. In Ticketmaster v. Microsoft Corp.,24 Ticketmaster attacked Microsoft's practice of linking users not to Ticketmaster's first or "home" page, but rather directly to the order form, allegedly making it appear as though users were ordering the tickets directly from the Microsoft website.25 This practice, known as "deep-linking," has garnered sharp criticism from certain members of the online community, some of whom only have a business presence online.

The web design technique of "framing" also has engendered litigation. Websites employing this technique allow users to pull up content from other sites, displaying the content in a smaller window "framed" by the window of the original site. This allows the user to remain in the site they are and still survey other content. In one case, for example, the news content from numerous on-line newspapers could be seen through the TotalNews website. In a lawsuit by the Washington Post Co. and several other news providers against TotalNews Inc., the plaintiffs claimed that TotalNews had "designed a parasite website."26 The case settled, allowing TotalNews to link to the other sites but not within a TotalNews "frame."

Peripherally associated with the concept of framing is another type of case brought under a misappropriation of copyrighted material theory. In National Basketball Association v. Motorola,27 a pager company sent real-time statistics on NBA games to client's pagers. The Second Circuit held that Motorola did not infringe the NBA's copyright by repackaging the information and sending it to its clients, because facts cannot be copyrighted. Real-time information on the games was "hot news," the court concluded, and thus had limited protection as a fact-based work.

Meta-tag trademark infringement cases are known as "invisible infringement" cases because meta-tags are the code behind a website. The website developer can put words into the code that will enable search engines to associate those words with the site. Meta-tags are crucial to the

functioning environment of the Internet. However, problems arise when individuals put another company's trademarked names into the meta-tags of their site in order to divert business away from the trademark holder.

In Playboy Enterprises Inc. v. Calvin Designer Label,28 the federal district court granted an injunction against a company that had allegedly used Playboy's trademarked name repeatedly in its meta-tags in order to divert people to its site. In Insituform Inc. v. National Envirotech Group LLC,29 the parties settled under terms that permanently enjoined the defendant from using the plaintiff's trademarks in its meta-tags. In Oppendahl & Larson v. Advanced Concepts,30 a violation of the Lanham Act was alleged based on metatag usage.

Website owners who wish to protect their content can employ new technologies and practices specifically designed to combat alleged abusers such as linking without consent. Examples of these technological controls include the use of registration and passwords to gain access to a site, as well as the use of dynamic web pages whose URLs change at set periods of time.

Since the law is unsettled regarding the extent if any, a link to infringing content can expose a web page creator to liability, it is important for companies to take precautions to minimize the risk involved. Commentators have suggested various strategies:

Screen web pages initially. Before incorporating a hyperlink into a website, screen the contents of those pages. Look for indications that the material may be unauthorized, such as the lack of or obvious removal of copyright notices. If possible print a copy of the web page before linking to it. This will create a record showing the date it was screened.
Periodically recheck linked web pages. Periodically check if the linked pages have added infringing content. While this may be a fairly simple task for a webmaster with few links, for directory-- type pages this is an extremely time consuming process. Software programs that automatically notify the web host when links have been changed can assist in this process.

Establish a notification procedure. Create a mechanism by which the provider can be notified about any infringing material on the linked site. This can even include a statement added to the web page explaining the copyright infringement procedure, together with an e-mail address to which complaints can be sent. This should increase the chances of being notified of any links to infringing content and provide an opportunity to correct it as soon as possible.

Immediately remove the link. The provider can removes the link immediately on notification of infringing material.

Disclaimers. Some directory type pages with numerous links provide a disclaimer from various types of liability, including copyright compliance. However, some argue this is an ineffective shield to the provider from all infringement liability once it becomes aware of any links to infringing content.

f. Shrink Wrap and Click Wrap Licenses

The Seventh Circuit overturned a lower court decision in ProCD Inc. v. Zeidenberg,31 and held that "shrink wrap" licenses are generally enforceable. Hotmail Corp. v. Van$ Money Pie Inc.32 was the first judicial pronouncement that "clickwrap" agreements are valid and enforceable.

Companies should draft careful clickwrap agreements to address common areas of potential liability or dispute. In a property drafted click-wrap contract, license terms should be presented in a manner designed to call the user's attention to them, either before or at the time of installation,

access or use. The user should be conspicuously notified to take certain affirmative conduct to indicate acceptance, such as by clicking on an "accept" button. The user should not be permitted to access or use the software in any way without the required acceptance and should always be given the option to reject the terms offered and obtain a refund of any money paid before the terms were made available.

The contract should include several essential elements. Any applicable limitations on the specific services being rendered or goods being provided should be described in detail. The contract should identify any limitations on the permitted use of any information or documents made available and should specifically set forth the customer's agreement as to the treatment of the company's copyright or other intellectual property rights. The contract should address the company's rights to use any personal information of the user-- such as name, telephone number and address-and whether the company will keep this information strictly confidential, or be able to use it for other purposes or provide it to other parties.

The limitation of remedies to the disgruntled customer-such as a waiver of indirect, consequential or speculative damages or lost profits-should be prominently featured. It is desirable also to include a further limitation of liability by a cap equal to the price of the product or service sold. In an attempt to avoid litigation in foreign jurisdictions, it is desirable to include a provision stating that any disputes over the online contract will be brought only in the city of the site owner's principal place of business.

Companies also should include disclaimers about potential viruses, hyperlink disclaimers and an integration clause. A copyright notice on each page also is important.

g. Database Protection

One of the cutting-edge issues in Internet copyright law is the extent of protection available for database content. In Feist Publications v. Rural Telephone Service Co.,33 the U.S. Supreme Court held that compilations of facts in a normal format, such as alphabetically, cannot be copyrighted, which effectively eliminating the sweat-of-the-brow doctrine. Since Feist, courts have held that there is no difference between a paper compilation, such as a telephone book, and an electronic database under the Court's analysis in that case. However, legislation has been proposed that would limit or overrule Feist, allowing further protection for database content.

2. Trademarks

a. Domain Names

Until 1999, domain names were registered solely by Net Solutions Inc., a company granted the exclusive right to do so by the federal government. A domain name is the portion of an Internet net address that follows "www." Because registration of domain names is independent of trademark registration, trademark conflicts often arise. A committee of the Internet International Ad Hoc Committee was given the job of creating a final report on correcting the problems with the domain name registration system, and it has published its proposed rules for handling trademark disputes." These are:

1. Second-level domains could infringe trademarks. The IAHC report expressly recognizes that "SLDs are capable of infringing trademark rights" and that "trademark owners have a legitimate interest, under national trademark law, in policing against infringement."

2. But registrars would not arbitrate disputes. IAHC rejects the approach of registrars placing domain names on "hold" pursuant to a dispute procedure, such as Network Solutions does, and it proposes that registrars be "involved as little as possible" in trademark disputes.

3. There would be no involuntary waiting period. The IAHC recommends a voluntary waiting period to make sure no domain name disputes occur after significant investments have been made.

4. Voluntary use of the waiting period would be rewarded with a defense. This would hold trademark challengers to a very strict due diligence standard.
5. Applicants would be required to agree to jurisdiction and an agent for service of process.

6. There would be publicly posted information, annual renewal, and recovery of lame designations. Annual renewal would provide a disincentive to purported speculators and extortionists, and the recovery of lame domain names would eliminate some names being registered only for speculation and not used for active service.

7. There would be administrative domain name challenge panels. The panels would enforce only a narrow policy.

Cases involving domain name disputes usually center on two companies or organizations doing business with the same name. While there are highly publicized cases regarding "cyber-squatters," who intentionally register trademarked names in the hopes of purportedly extorting high prices for them later, these are not the norm. Most cases involve two companies, or individuals, both of whom have some legitimate interest in the name or mark. As of the end of 1998, more than 65 cases had been filed regarding domain name disputes. One of these involved "mikasa. com" and was a case between the volleyball company and the china company, both with valid federally registered trademarks for "mikasa." Another was "candyland. com," a case brought against a pornographic website under the famous mark dilution act.

Some domain name defendants have been successful in arguing that the degree of confusion with a trademark is insufficient to create liability. In Teletech Customer Care Management v. Tele-Tech Co.,35 the federal district court found no infringement between the defendant's "teletech.com" domain address and the plaintiff's trademark, noting that the plaintiff could only show momentary confusion by the browser, a confusion not cognizable under trademark law.

Alleged dilution is a common theory in domain name related trademark cases. In Hasbro Inc. v. Internet Entertainment Group Ltd.,36 "Candyland" was deemed to be a famous trademark associated with family entertainment. Because the defendant was running an adult entertainment site at the domain name "candyland.com," the court found that defendant was liable for tarnishment of a famous trademark (15 U.S.C. sec425(c)). In Intermatic Inc. v. Toeppen,37 dilution of a famous mark through blurring was proved against the defendant. The court ruled that the defendant's use lessened the capacity of the plaintiff's famous mark to identify and distinguish the plaintiff's goods.
The domain name registry also has been the target of litigation. Network Solutions was granted summary judgment in a case brought by the Lockheed Martin Corp., in which Lockheed sued NSI for infringement for accepting domain name registrations that were similar to Lockheed's service mark "Skunk Works." The court ruled that because NSI did not use Lockheed's service mark for sales, distribution, or advertising purposes, it could not be liable for infringement or for unfair competition.38

b. Other Trademark Protection

When copyright protection is not available, the Lanham Act has been utilized in an attempt to protect the "look and feel" of a website. Trade dress protection under Section 43(a) of the Lanham Act also may arguably serve as a "copyright substitute."

C. Defamation and the Internet

There are at least four key elements to most defamation causes of action: (1) a false or defamatory statement regarding another individual or company, (2) an unprivileged communication of that statement to a third party, (3) a level of fault arguably amounting to at least negligence on the part of the person who publishes the defamatory statement, and (4) either an actionable statement itself, irrespective of special harm, or the existence of special harm that was caused by the publication of the defamatory content.

The extent, if any, to which an online service provider becomes liable for the tortious actions or contract violations of its subscribers remains unsettled. Many people argue that following the provisions set forth by Section 230(c)(1) of the Communications Decency Act, applying the common carrier exception to ISPs in the same manner as phone companies is appropriate, which would eliminate a significant degree of potential provider liability. Others complain that such an interpretation goes too far and seems to give free rein to the providers to harbor and abet their subscribers' wrongdoing. The courts are faced now with determining the scope of this new provision.

In most cases to date, the privilege defense has successfully shielded the providers from liability for alleged torts of subscribers. In Zeran v. America Online,39 the Fourth Circuit held that America Online was not liable for a subscriber's use of a private citizen's telephone number in an advertisement selling T-shirts glorifying the Oklahoma City bombing. In Doe v. America Online,40 a Florida intermediate appellate court relied on Zeran to shield AOL from liability when one of its subscribers advertised pornographic images of an 11-year-old boy. Most recently, in Blumenthal v. Drudge,41 the U.S. District Court for the District of Columbia held that AOL could not be held liable for statements made by cyber gossip columnist Matt Drudge and carried on AOL's Internet site. The court stated that Congress has conclusively made ISPs immune from tort liability stemming from the actions of their subscribers.

The precise medium of communication of the allegedly defamatory material may prove important. For example, in the 1999 case of Lunney v. Prodigy Services Co.,42 the New York Court of Appeals had no trouble finding that Prodigy, an online service provider, could not be held liable for defamation as a "publisher" of its subscribers' e-mails, describing Prodigy's role as "akin to that of a telephone company, which neither wants nor expects to superintend the content of its subscribers' conversations. In this respect, an ISP, like a phone company, is merely a conduit." While the Lunney court also found that, at least under the facts of that case, Prodigy was not a "publisher" of messages on one of its bulletin boards, it recognized that bulletin board messages present "more complicated legal questions." While carefully declining to render an "advisory opinion" on that subject, the court did suggest that increased editorial efforts or abilities by a bulletin board provider might produce a different result.
In a defamation case regarding a faulty Internet press release, a federal judge allowed Virginia's long-arm jurisdiction statute to apply against a Missouri company. In Telco Communications v. An Apple a Day43 the judge determined that regardless of the fact that the press release had been prepared and published in another state, the company "should have reasonably known that the press releases would be received in Virginia."

D. Privacy and the Internet

1.Spam

"Spam" is the Internet term used to describe unsolicited e-mails. It has been defined as any e-mail sent to more than 20 people the sender does not know personally. Spam is facilitated by on-line collection of personal data

through Internet use. Online user information is collected and collated, and lists with certain demographics are then sold to the spammers.

Bulk e-mailers have become targets of litigation. In one case, a bulk e-mailer used a tactic known as "spoofing" to get users to read the spam they were sent. The company would allegedly make the message appear in the in-box of the users as having come from their ISP, such as Earthlink, AOL or CompuServe. Mailboxes allegedly were clogged with thousands of unwanted e-mail solicitations. The bulk e-mailer settled with the three companies for millions of dollars. The Earthlink settlement, for example, prohibits the sending of any further e-mail messages to its users for any purpose and provides for a payment of $2 million.

The Federal Trade Commission also has taken action against bulk e-mailers. One recent case in the U.S. District Court in Maryland alleges that a bulk e-mailer used commercial e-mail to promote a misleading advertising scheme.44

2. E-mail at the Office

Federal statutory framework in this area is the Electronics Communications Privacy Act of 1986 (ECPA), codified at 19 U.S.C. secsec2510-2521, 2701-2711, 3117 and 3121-- 3127. An expanded version of an old wiretapping statute, this act covers interception of "electronic communication" and unauthorized access of stored electronic communications. Although there are few cases in this area, legal scholars expect that provisions of this act relating to stored data ultimately will be used to cover most disputes regarding unauthorized access of e-mail.

Unfortunately, the central issue-- whether, under the ECPA, employees who send e-mail communications in the course of their employment have a reasonable expectation of privacy-remains unresolved. A violation of the ECPA, however, is serious and may carry both civil and criminal penalties.

Since there is not yet a definitive case resolving the issue of employee expectation of privacy, guidance must be drawn from scattered cases and the act itself. Courts have found certain exceptions to the ECPA, including instances where prior written consent has been given by a telephone user, allowing an employer to intercept telephone communications. This is arguably a very narrow exception, however, involving very strong facts demonstrating clear, express consent. Another exception under the ECPA is the interception of communications that are intended to be shared, such as communications posted on a company bulletin board. In such a case, the employee does not have a reasonable expectation of privacy.

Some trial courts have held that an employee does not have a reasonable expectation of privacy when e-mail messages are sent to others within the company. But these are decisions by lower trial courts and provide poor precedent until they reach higher courts.

Many businesses now require employees to sign disclosure statements that authorize a management review of all e-mail communications may be reviewed at the conclusion of their employment. Authorizing this disclosure would reduce, but not eliminate, an argument that there is employer liability to the employee for violating an expectation or right of privacy.

E. Legislation

1. No Electronic Theft Act

Enacted at the end of 1997, the No Electronic Theft Act (NET Act) amended Titles 17 and 18 of the U.S. Code to provide greater copyright protection by amending the provisions governing criminal copyright infringement. Designed to dissuade Internet software piracy, the act imposes criminal sanctions on infringers who reproduce or distribute one or more copies of

copyrighted works valued at more than $1,000. It also was intended to reverse a decision that an Internet software pirate could not be held because he did not commit the infringement for any personal gain.

The NET Act allows for victim-impact statements in cases of infringement and defines victims as producers and sellers of legitimate works or goods and services affected by the infringing conduct, holders of intellectual property rights, and their legal representatives. There are new penalties for unauthorized fixation and trafficking of live musical performances and trafficking in counterfeit goods.

2. Digital Millennium Copyright Act

This act combines anti-circumvention provisions designed to implement the treaties associated with the World Intellectual Property Organization. It creates a new Section 512 of the Copyright Act that limits service providers' liability in five general categories of activity: (1) the conduit function, (2) server caching, (3) storing stationary material on a provider's server, (4) location tools and (5) good faith "take downs" of allegedly infringing material. Service providers who qualify are protected from all monetary relief for direct, vicarious and contributory infringement.

3. Proposed Legislation-106th Congress

Internet-related bills are proliferating in Congress. While many seek to regulate the Internet and Internet-related activities, it is notable that many others seek to prohibit regulation of the Internet to preserve its stellar growth. To highlight the current areas of Internet-related legislative activity, the following will provide a list of some of the more notable.

a. Senate and Senate-House Bills

* S. 97, H.R. 368, the Children's Internet Protection Act, mandates use of filtering software for schools and libraries receiving "e-rate" funding);

* S. 328 makes permanent the moratorium on the imposition of taxes on the Internet;

* S. 393, the Congressional Openness Act, provides Internet access to Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and joint committee documents;

* S. 637, H.R. 1245, the Internet Gun Trafficking Act of 1999, regulates the sale of firearms over the Internet;

* S. 692, the Internet Gambling Prohibition Act, prohibits gambling over the Internet;

* S. 699, H.R. 612, the Telemarketing Fraud and Seniors Protection Act, protects the public, especially seniors, against telemarketing fraud and fraud over the Internet;

* S. 759, the Inbox Privacy Act of 1999, regulates transmission of unsolicited commercial e-mail;

* S. 761, H.R. 1320, the Millennium Digital Commerce Act, promotes and sets standards for the use of digital signatures;

* S. 798, the Promote Reliable On-Line Transactions to Encourage Commerce and Trade (PROJECT) Act of 1999, described as a bill to promote electronic commerce by encouraging and facilitating the use of encryption in interstate commerce consistent with the protection of national security;

* S. 809, the Online Privacy Protection Act, requires privacy disclosures

on websites, allows consumers to "opt-out" of giving information to third parties, allows consumers to access own personal data;

* S. 854, the Electronic Rights for the 21st Century Act, described as a bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to location information, decryption assistance for encrypted communications and stored electronic information and other information; and to affirm the rights of Americans to use and sell encryption products as a tool for protecting their online privacy;
* S. 1043, the Internet Regulatory Freedom Act of 1999, deprives the Federal Communications Commission of jurisdiction to set standards for the Internet;

* S. 1255, H.R.3028, the Anticybersquatting Consumer Protection Act / Trademark Cyberpiracy Prevention Act, is designed "to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws." It was signed into law on November 30, 1999;

* S. 1461, the Domain Name Piracy Prevention Act of 1999, prohibits "the bad-faith registration, trafficking or use of Internet domain names that are identical to, confusingly similar to, or dilutive of distinctive trademarks or service marks";

* S. 1545, the Neighborhood Children's Internet Protection Act, requires schools and libraries receiving universal service assistance to install systems or implement acceptable use policies for blocking or filtering Internet access to matter inappropriate for minors, requires a study of available Internet blocking or filtering software); and

* S. 1901, the Privacy Protection Study Commission Act of 1999, establishes a Privacy Protection Study Commission to evaluate the Freedom of Information Act and E-FOIA.

b. House Bills

House bills in the 106th Congress relating to the Internet include:

* H.R. 87 prohibits Internet and mail order sales of ammunition without a license to deal in firearms; requires licensed firearms dealers to record all sales of 1,000 rounds of ammunition to a single person;

* H.R. 313, the Consumer Internet Privacy Protection Act of 1999, regulates the use by interactive computer services of personally identifiable information provided by subscribers; H.R. 367, the Social Security On-line Privacy Protection Act of 1999, restricts disclosure of Social Security numbers by interactive computer services;

* H.R. 439, the Paperwork Elimination Act of 1999, promotes the use of digital signatures in submission of government documents;

* H.R. 654, the Congressional Research Accessibility Act, makes available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service website;

* H.R. 850, the Security and Freedom Through Encryption Act, affirms the right to use and sell encryption, liberalizes export controls, and prohibits domestic key recovery;

* H.R. 896, the Childrens' Internet Protection Act, requires schools and libraries to use filtering or blocking technology on computers with Internet access to remain eligible for universal service assistance;

* H.R. 1685, H.R. 1686, the Internet Growth and Development Act / Internet Freedom Act, relaxes regulations on local phone companies for Internet traffic while requiring them to provide broadband service where possible; prohibits local phone companies from refusing to provide competitors with reasonable access to broadband-compatible local loops; requires that "broadband access transport providers" must not discriminate between unaffiliated ISPs and affiliated ISPs; prohibits false return addresses in unsolicited commercial e-mail; promotes the use of digital signatures; and requires ISPs to post and comply with privacy policies;

* H.R. 1714, the Electronic Signatures in Global National Commerce Act, establishes national procedural guidelines affecting electronic signatures and records, electronic record retention and interaction of electronic agents;

* H.R. 1910, the E-Mail User Protection Act, prohibits abusive use of unsolicited bulk electronic mail;

* H.R. 2162, the Can Spam Act, prohibits the use of the equipment of an electronic mail service provider to send unsolicited commercial electronic mail in contravention of the provider's posted policy; prohibits unauthorized use of Internet domain names;

* H.R. 2560, the Child Protection Act of 1999, requires public schools and libraries that receive federal funds for the acquisition or operation of computers to install software to protect children from obscenity;

* H.R. 2616, the Encryption for the National Interest Act, clarifies the policy of the United States with respect to the use and export of encryption products;

* H.R. 2617, the Tax Relief for Responsible Encryption Act of 1999, amends the Internal Revenue Code to allow a tax credit for development costs of encryption products with plain text capability without the user's knowledge:

* H.R. 3113, the Unsolicited Electronic Mail Act of 1999, is designed "to protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail";

* H.R. 3125, the Internet Gambling Prohibition Act of 1999, prohibits gambling over the Internet; and

* H.R. 3321, the Electronic Privacy Bill of Rights Act, requires privacy disclosures on websites; requires consumer "consent" for all uses of data; and allows consumers to access their own personal data.

5. International Legislation-WIPO Conference Treaties

The World Intellectual Property Organization, an intergovernmental organization with headquarters in Geneva, is responsible for the promotion of international standards for protection of intellectual property throughout the world.45 In 1996, a hotly contested WIPO conference resulted in the promulgation of two WIPO treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. After an equally contentious battle in the U.S. Congress, these treaties were incorporated into United States law as provisions in the Digital Millennium Copyright Act.

a. Copyright Treaty

The copyright treaty establishes that authors and artists have the exclusive right to distribute, sell or rent their work electronically. It prohibits the unauthorized removal or alteration of information about the ownership rights of a work, known as rights management information. It also requires that each country's implementing legislation specifically address

the issue of enforcement procedures.

b. Performance Treaty

The performance treaty protects performers and producers. It is the first piece of international legislation to apply to digital transmission of sound recordings. The treaty requires member countries to grant the same exclusive rights and remedies to foreigners as they grant their own citizens. It gives entertainers and producers the exclusive right to authorize the reproduction, distribution and rental of performances. The protection runs for 50 years from the first date of performance.

CONCLUSION

Chapter IX of the Book of Matthew, verse 17, states the wisdom: "Neither do men put new wine into old bottles; else the bottles break, and the new wine runneth out, and the bottles perish; but they put new wine into new bottles, and both are preserved."

What we are seeing with transactions conducted over the Internet is an effort to take a new medium of communication and apply old legal concepts to it. Do the old concepts that apply to transactions on paper, such as liable, trademark infringement, patent infringement, invasion of privacy, etc. apply when those offenses are conducted over the Internet? The answer is substantially "yes," but with some important differences, as noted above.

The results are illustrative of the genius of the common law and its ability to adapt old doctrines to new and changed circumstances, while maintaining a continuum with the best traditions of the past.

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1. 89 F.3d 1257 (6th Cir. 1996).

2. See Zippo Mfg. Co. v. Zippo Dot Com, 952 F.Supp. 1119 (W.D. Pa. 1997); Dean v. Motel 6 Operating L.P., 134 F.3d 1269 (6th Cir. 1998); Cole v. Mileti, 133 F.3d 433 (6th Cir. 1998); Cooper v. Digital Processing Sys., 182 F.R.D. 242 (N.D. Ohio 1998); Iron Workers Local Union No. 17 Ins. Fund v. Philip Morris Inc., 29 F.Supp.2d 801 (N.D. Ohio

1998); Kuipers v. McDonnell Douglas Corp., 1998 U.S. Dist. LEXIS 14723 (W.D. Mich.); Douglas v. Modem Aero, 954 F.Supp. 1206 (N.D. Ohio 1997); Nationwide Mut. Ins. Co. v. Curry, 1997 U.S. Dist. LEXIS 6196 (S.D. Ohio); Highway Auto Sales v. Auto-Konig of Scottsdale, 943 F.Supp. 825 (N.D. Ohio 1996); 3DO Co. v. Poptop Software Inc., 1998 U.S. Dist. LEXIS 21281 (N.D. Cal.).

3. 126 F.3d 25 (2d Cir. 1997), affg 937 F.Supp. 295 (S.D. N.Y. 1996).

4. 999 F.Supp. 636 (E.D. Pa. 1998).

5. 985 F.Supp. 1032 (D. Kan. 1997).

6. 130 F.3d 414 (9th Cir. 1997).

7. 141 F.3d 1316 (9th Cir. 1998).

8. 1998 U.S. Dist. LEXIS 2488, 1998 WL 192677 (N.D. 111.).
9. 937 F.Supp. 161 (D. Conn. 1996).

10. Scherr v. Abrahams, 1999 U.S. App. LEXIS 3670 (7th Cir.).

11. 947 F.Supp. 1338 (E.D. Mo. 1996), reconsideration denied, 947 F.Supp. 1328.

12. 992 F.Supp. 44 (D. D.C. 1998).

13. 66 Cal.Rptr.2d 399 (Cal.App. 1997), review denied, Oct. 22, 1997.

14. See Mieczkowski v. Masco Corp., 997 F.Supp. 782 (E.D. Tex. 1998); Kerry Steel Inc. v. Paragon Indus. Inc., 106 F.3d 147 (6th Cir. 1996).

15. 981 F.Supp. 841 (S.D. N.Y. 1997).

16. United States v. LaMacchia, 971 F.Supp 535 (D. Mass 1994).

17. See 17 U.S.C. 506; 18 U.S.C. 2319, 3571.

18. 13 F.Supp.2d 782 (N.D. 111. 1998).
19. 93 Civ. 8153 (S.D. N.Y. 1993).

20. 907 F.Supp. 1361 (N.D. Cal. 1995).

21. 1994 U.S. Dist. LEXIS 6395, 1994 WL 191643 (S.D. N.Y.).

22. 948 F.Supp. 923 (N.D. Cal. 1996).

23. 839 F.Supp. 1552 (M.D. Fla. 1993).

24. Civ. Docket No. 97-CV-3055 (S.D. Cal., filed April 28, 1997).

25. Although this case settled on officially undisclosed terms, some reports suggested that Microsoft agreed to discontinue its practice of "deep linking" to the Ticketmaster site. The text of Ticketmaster's complaint may be found at Ticketmaster v. Microsoft Complaint <http:// legal. web.aol.com/decisions/dlip/tickcomp.html> (visited Dec. 2, 1999). For a concise presentation of the variety of legal issues attendant to framing and linking, see Linking and Liability <http:// www.bitlaw.com/internet/linking.html> (visited Dec. 2, 1999).

26. The text of the complaint in Washington Post Co. v. Total News Inc. may be found at <http:/ /zeus.bna.com/e-law/docs/total.html> (visited Dec. 2, 1999).

27. 105 F.3d 841 (2d Cir. 1997).

28. 985 F.Supp. 1218 (N.D. Cal. 1997).

29. Civil Action No. 97-2064 (E.D. La.).

30. 1997 U.S. Dist. LEXIS 23105 (D. Colo. Dec. 19, 1997).

31. 86 F.3d 1447 (7th Cir. 1996).

32. 1998 U.S. Dist. LEXIS 10729, 1998 WL 388389 (N.D. Cal.).

33. 499 U.S. 340 (1991).

34. Proposed Guidelines Concerning Administrative Domain Name Challenge Panels <http:// www3.itu.int/iahcldoes/aep-guide.html> (visited Dec. 2, 1999)..

35. 977 F.Supp. 1407 (C.D. Cal. 1997).
36. 1996 U.S. Dist. LEXIS 11626, 1996 WL 84853 (W.D. Wash.).

37. 947 F.Supp. 1227 (N.D. 111. 1996).

38. Lockheed Martin Corp. v. Network Solutions Inc., 985 F.Supp. 949 (C.D. Cal. 1997). See also 175 F.R.D. 640 C.D. Cal. 1997), and 1997 WL 381967 (C.D. Cal.).

39. 129 F.3d 327 (4th Cir. 1997).

40. 718 Sold 385 (Fla.App. 1998).

41. 992 F.Supp. 44 (D. D.C. 1998).

42. 1999 N.Y. LEXIS 3746 (N.Y. Ct. App. Dec. 2,1999).

43. 977 F.Supp. 404 (E.D. Va. 1997).

44. Fed. Trade Comm'n v. Maher, No. Civ. WMN-98-495 (D. Md.).

45. The WIPO home page is <http://www.wipo org/eng/main.htm> (visited Dec. 7, 1999).
[EDITORS' NOTE: This is the second part of an article on the World Wide Web and the new world of litigation arising from use of the Internet. The first segment was published in the October 1999 issue of Defense Counsel Journal, page 497, and dealt with a basic introduction to the structure of the Internet and its participants.]

GEOGRAPHIC NAMES: United States; US

DESCRIPTORS: Internet; Changes; Intellectual property; Common law; Bills; Liability; Court decisions
CLASSIFICATION CODES: 9190 (CN=United States); 5250 (CN=Telecommunications systems & Internet communications); 4300 (CN=Law)
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Set	Items	Description
S1	4666	(((INTELLECTUAL (S) PROPERT?) OR MERGER?) OR (TECHNOLOG? NEAR2 TRANSFER?)) AND (SERVER OR HOST?) AND INTEREST AND AGREE? AND PD<=000320
S2	3979	RD (unique items)
S3	0	S2 AND (SECOND NEAR2 INTEREST?)
S4	188	S2 AND (WEBSITE)
S5	141	S4 AND INTERNET
S6	104	S5 AND AGREEMENT
S7	27	S6 AND (ENTITY OR PARTY)
S8	0	S7 AND (PAST (NEAR3) INQUIR?)
S9	0	S7 AND (PAST (NEAR7) INQUIR?)
S10	10	S7 AND IDENTIF?
S11	0	S10 AND (IP NEAR3 EXCHANG?)

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T S10/FULL/6

10/9/6 (Item 2 from file: 20)
DIALOG(R)File 20:Dialog Global Reporter

03652431 (THIS IS THE FULLTEXT)
MKW Leading Article: ITC sets flawed system to rights
LUCY KILLGREN
MARKETING WEEK, p3
December 03, 1998
JOURNAL CODE: FMWK LANGUAGE: English RECORD TYPE: FULLTEXT
WORD COUNT: 23437

The quality Napoleon most prized in his commanders was luck. Advertisers and commercial TV executives may well come to hold the same opinion about the generalship of Richard Eyre. After staking everything on a doomed campaign to achieve 38 per cent peak time ratings, Eyre's reputation has bounced back with two famous victories.

The first, seeing off News at Ten, has long been a useful strategic objective to which both advertisers and TV sales houses could rally. Logically, with harshening competition, there seemed little sense in keeping a programme with declining viewing figures that cut across peak time.

There was only one problem with the Great Rescheduling: no one else, from the prime minister to the general public, wanted it. Eyre's recent savaging at the hands of that culture select committee rottweiler Gerald Kaufman underlined the measure of it. Whatever the commercial logic, moving the News at Ten seemed a dead issue.

Of course, we now know it was not. And accordingly should congratulate Eyre and his colleagues on their skillful and tenacious lobbying. But it is the Independent Television Commission, as final court of appeal, that deserves the most plaudits. Moving the News at Ten was one of two decisions (and much the less important) made by the ITC which has at last redressed the flagrant imbalances of the 1990 Broadcast Act.

The decision to remit pounds 90m in annual licence payments to various ITV companies might at first seem no more than unenlightened commercial self-interest. Certainly it will provide Eyre with a juicy revenue windfall (his second famous victory) that can be invested in better programme quality.

But there is, happily, a good deal more at stake than that. As Torin Douglas points out, the Treasury payment system was fatally flawed from the beginning. The criteria on which consortia made their bids had almost everything to do with active competition at the time and made no allowances for the environment of the future. Thus Central won its licence with an unopposed pounds 2,000 cash bid, while GMTV, which faced two formidable rival bidders and heightened breakfast-time competition, has all but bankrupted itself with a payment of pounds 35m a year to the Treasury.

Tough, say the critics: GMTV gambled and lost. Why should it be recompensed for its financial folly now? But that, to a considerable extent, misses the point. ITV as a whole has been warped by the skewed financial geometry resulting from the Broadcast Act. In taking proper account of the more complex environment which has developed since the beginning of the Nineties and redefining licence payments around actual advertising revenue, the ITC has done not only ITV but the whole of commercial television a service.

David Hoare, the former chief executive of Laura Ashley, is to join rental group Thorn as UK chief executive. He replaces David Williams, who left the company last week.

Japanese investment bank Nomura acquired Thorn, which was a public company, for pounds 980m in July. Thorn's empire includes the high street chain Radio Rentals.

Nomura was attracted to the group because of the strong cash generative nature of the business. The Japanese company has bought its way into Britain's pubs, betting shops, railway rolling stock and even military

homes.

Hoare left the troubled home furnishings and clothing retailer in August after only eleven months in the job.

He was the company's sixth chief executive since 1990 and was replaced by his deputy, Victoria Egan, after investment company Malaysian United Industries administered a pounds 44m cash injection to rescue the company.

Thorn could be one of the biggest beneficiaries of the launch of digital television and in May it signed up footballer Ryan Giggs to launch its first digital TV campaign.

Hoare, who runs management consultancy Talisman Management, is also a director of Virgin Express and formerly worked at Bain & Co.

In April, Thorn UK appointed three Ogilvy Group companies to work on its pounds 10m above- and below-the-line accounts.

Carat is on the verge of losing the bulk of its largest client - the VW business across Europe. MediaCom is tipped to be in pole position to win the UK account, handled by Carat-affiliate BBJ Media Services.

It is understood that VW is poised to pull its business out of the UK, Spain, Italy and the Benelux countries after a decision made at the company's centre rather than on a market-by-market basis. The grave worsening of Carat's position follows the first and most significant split with VW in its home market, Germany.

Carat lost the pounds 170m German business to Grey Advertising's MediaCom in November as exclusively revealed in Marketing Week (MW 12 November).

Sources say that MediaCom is in pole position to win more business.

VW is believed to spend about pounds 545m on advertising outside the US, a huge chunk of Carat's media billings of approximately dollars 8bn (pounds 4.79bn), as recorded in 1997.

The loss of VW would have a dire effect on Carat's profits. At its last annual results, Carat's parent Aegis Group reported pre-tax profits of pounds 45.6m, up 15 per cent year on year from pounds 39.6m.

VW UK refused to comment on the situation and VW Worldwide would not comment 'at this time'. Alexander Schmidt-Vogel, chief executive officer of MediaCom Europe, also refused to comment.

BBJ Media Services, which handles the pounds 34m (AC Nielsen-MEAL) business in the UK, refuses to comment.

Fashion retailer French Connection has signed a sponsorship deal to sponsor heavyweight boxing champion Lennox Lewis in the run-up to his title unification world championship clash with Evander Holyfield.

The deal is worth an estimated pounds 1.5m and from now until the fight the boxer will wear the fcuk brand in training as well as on his shorts in the ring, on March 13 in New York's Madison Square Garden.

The deal was set up by GGT TBWA Simons Palmer creative director Trevor Beattie for Panix promoter Pannos Eliades, who promotes Lewis. Beattie acted on behalf of his client, French Connection founder Stephen Marks.

Lewis is the World Boxing Council heavyweight champion, while Holyfield is the International Boxing Federation and World Boxing Association heavyweight champion.

Express Newspapers is reviewing the creative accounts for its three titles - The Express, The Express on Sunday and the Daily Star - which are worth a total of pounds 5.7m.

The group has invited four agencies to make presentations, but incumbent Leo Burnett has refused to take part. Stephen Whyte, managing director of Leo Burnett, says: 'At the end of last week the Express called a review and asked us to take part with four agencies. We declined and have resigned the business.'

Paul Woolfenden, commercial director at Express Newspapers, moved the Express account out of Lowe Howard-Spink and into Burnett without a pitch shortly after joining the group as marketing director in April.

At the time, Burnett had worked for the group for 16 years. It has handled the Daily Star since 1988. Before that it was the agency of record for the Express on Sunday.

A revamp for the Star in June failed to reverse the tabloid's long-term circulation decline (MW May 28). According to Audit Bureau of Circulations figures, the Star's average net circulation for the period May

to October stood at 566,305, down 11.46 per cent year on year.

Express Newspapers axed 46 editorial posts on the Star in October, affecting 29 permanent members of staff. The Express has also been losing readers, with an average net circulation of 1,134,719 - down 7.25 per cent year on year.

Premium lager Grolsch is to appear on TV screens for the first time in two years in an pounds 8m relaunch. The campaign has been designed by Bass Brewers' incumbent agency EURO RSCG Wnek Gosper.

Bass, which owns the Dutch brand in partnership with Grolsch in the UK, hopes to target a broader audience with the campaign. Its core customers are expected to be ABC males between 25 and 34 years old.

The campaign includes a new-look font and point-of-sale advertising. One 30-second advertisement will air from December 18 on all the major commercial channels into the New Year.

The execution shows the Grolsch brewery from the perspective of a paper plane that is flying through the building.

The ad emphasises the heritage of the lager, which the company claims has been in existence since 1615, and the fact that the beer brews for three times longer than most lagers.

The new font, which has been updated by Brand Union subsidiary Tutsells, will be rolled out over the next few months.

The campaign follows speculation that Bass is to bid for the troubled Dutch Grolsch parent in the wake of the UK company's failed Carlsberg-Tetley takeover, and rumours that rival Scottish Courage may buy French premium lager Kronenbourg 1664.

Simon Heller, former marketing consultant for the Digital Video Disc (DVD) committee, has been appointed marketing director of Warner Vision, the video arm of Warner Music.

Heller, who replaces Sandra Cuckow, was formerly an advisor to the committee backing the launch of DVD. It is now looking for a replacement.

Heller says: 'I will be on the committee representing Warner Vision during the launch of DVD. And I'll be overseeing the launch of new products from the Warner Vision stable in the New Year.'

Warner Vision has just launched the video of cult cartoon series South Park. Other brands in its portfolio include Viva Las Vegas and the Coronation Street videos.

DVD committee members are considering a joint advertising initiative to create a mass market for the product and may be looking for an advertising agency in the New Year. Members include Warner Vision, Buena Vista, Columbia Tristar, MGM, Polygram, Sony, Philips, Panasonic and Toshiba.

Warner Vision has a marketing budget of pounds 1.5m and uses a number of creative agencies on a project by project basis.

Yellow Pages is launching a pounds 5m national TV campaign featuring everyday situations where the BT-owned directory can be of help. One ad shows a young man finding the number for a cleaner for his flat which is so messy a neighbour thinks it has been burgled. The other shows a wife calling a mobile stereo fitter to help her bungling husband fit a new car radio. The ads are through Abbott Mead Vickers. BBDO, which is about to be bought by US marketing services company Omnicom. Graham Brown, AMV vice-chairman, says: 'This is more about use than awareness- building. It is more contemporary.'

Somerfield is the latest supermarket to venture into the electrical goods market, with the launch of cut-price deals on televisions and stereos.

The 330-strong chain joins Tesco, Sainsbury's and Asda in the move towards non-food retailing.

Last month Tesco and Asda announced they would enter the home PC market with discount deals in the run-up to Christmas. Sainsbury's has offered electrical goods through its Savacentre chain for some years.

But the Somerfield offer will worry electrical retailers, as it could signal a move by smaller grocers to take advantage of the higher margins offered in their electrical lines.

Somerfield spokesman Peter Williams said: 'This follows the success of earlier trials, such as garden furniture in our largest stores, but we are

taking this more seriously.

'We are taking advantage of opportunities in non-food sectors.'

The offer features four products: an Alba 14' colour television for pounds 89.99, a Bush television, also for pounds 89.99, a Bush micro-stereo system at pounds 59.99, and a Bush radio/cassette and CD for pounds 39.99. All four items have been bought directly from manufacturers.

The Irish Tourist Board has appointed Niamh Fitzpatrick as international marketing director. The ITB is likely to become one of Ireland's first cross-border bodies.

Fitzpatrick joins from her post as marketing manager at tobacco company John Player.

Fitzpatrick, who will oversee the ITB's pounds 15m global marketing budget, replaces former international marketing director and GrandMet executive Noel Toolan, who resigned more than a year ago.

The ITB uses BMP DDB London, in partnership with Peter Owen in Dublin, for its creative work. It spends about pounds 3.2m through MindShare in Britain, which is its main tourist market.

Fitzpatrick will join at a time of transition for the board. Sources say the ITB is likely to form the core of an joint north and south tourist authority as a result of the Good Friday agreement. A spokesman for the ITB says: 'Fitzpatrick will be influential in drawing up marketing plans for the end of 1999.'

Chris Kane has been acting marketing co-ordinator for the ITB and he will resume his role of communications director.

Yorkshire Water has appointed rail company GNER's marketing manager Malcolm Brown to the new role of head of marketing.

Brown, who joins as sales and marketing manager in January, will report to Yorkshire Water director of customer services Tracy Flanders.

It is understood Brown will take over some of the responsibilities of Simon Ingham, who is taking up a post outside the marketing department.

A Yorkshire Water spokesman says the sales and marketing department has been created in the light of proposals to introduce competition to the water industry, though he points out this is a complex issue which may take some time to be resolved.

The water company is in the process of rebuilding its image after the drought fiasco of the summer of 1995, when it wrote to 3,000 local companies suggesting they could save water by relocating staff and giving them longer holidays, and sought to limit 400,000 customers to supplies on alternate days.

Chief executive Trevor Newton claimed he had not had a bath or shower for three months in an effort to save water. But he was later forced to step down when it transpired that he had used facilities in his parents' home outside the Yorkshire area.

Sears fashion chain Wallis has appointed Carole Simpson as head of marketing.

Simpson has been promoted from product communication manager.

She fills the gap left by marketing director Fiona Davies, who left the company earlier in the year to join the Early Learning Centre in the same role.

Simpson's appointment comes after Mike Overton was named Wallis commercial director and follows in the wake of job losses at Sears group. The Sears Womenswear group comprises Wallis, Richards, Miss Selfridge and Warehouse.

Wallis has axed one job in the marketing department and two in the production department as the retail giant attempts to cut costs.

Richards recently announced 25 job losses and put store development on hold in an attempt to reposition the brand and become more responsive to the market.

There is also speculation that Miss Selfridge may suffer cutbacks and even that Sears is preparing offload the womenswear division.

Wallis' advertising agency Bartle Bogle Hegarty launched the company's first brand-building campaign last summer. The initiative featured controversial press executions portraying the moments before possible fatal accidents.

The Guinness Book of Records is launching its first national TV

campaign with a pounds 500,000 pre-Christmas ad blitz. The push, which is aimed at children between eight and 14-years-old, comprises 30- second and ten-second executions and has been devised by Triangle, with media buying through John Ayling & Associates. Guinness Book of Records marketing director Malcolm Roughead says the national launch follows a regional trial in the Midlands which, he claims, boosted sales by more than 30 per cent. He adds: 'The test results were very encouraging. We now have the confidence to launch our first national TV campaign.' The ad will run for three weeks on ITV, Channel 4, Channel 5 and selected satellite channels.

Andy Towne, who is responsible for Adidas advertising, has joined six of his colleagues in quitting the sports giant for outdoor clothing brand Helly Hansen.

Towne, Adidas head of communications, takes up his new position as Helly Hansen global vice-president of communications next week. His appointment heralds a global branding campaign next year.

Helly Hanson, which is 120 years old, is also planning to appoint its first advertising agency.

Towne says: 'We will look at advertising and all aspects of the marketing and communications mix. We are going to move the brand powerfully and quickly.'

A year ago, former Adidas managing director Bob McCulloch joined Helly Hansen as worldwide chief operations officer.

Five Adidas marketing staff - Towne, his predecessor and three category managers and the former directors of operations and logistics - have followed McCulloch to Helly Hansen.

Towne says the size of Adidas made decision-making slow and his personal impact less visible.

He has been responsible for Adidas' advertising for the past three years and intends to use some Adidas 'tricks' to get the Helly Hansen brand noticed.

Towne adds: 'The brand just needs a kick up the backside. We are not kidding ourselves that it will be on the scale of Adidas or Nike, but it can be a significant player.'

Outdoor clothing brands such as Hansen, Karrimor and The North Face are fashionable with the youth market.

Towne says that it is essential the company builds core brands which will outlast fashion.

Red Stripe brewer Charles Wells is to spend part of the brand's pounds 4m marketing budget on a new link-up with clubbers' magazine Sleaze Nation.

The initiative involves a specially edited miniature version of the cult magazine, promoting Red Stripe in venues across Europe.

Beginning in up to five London clubs, the promotion will move to Manchester, Paris, Treviso (near Venice, Italy) and other European cities, and feature in Charles Wells' owned pubs on the continent.

The pocket-sized magazines will double up as a promotional device. They will feature the brand's red diagonal stripe which, when lifted, will reveal whether recipients have won a bottle, a pint, or can of Red Stripe - or a free copy of Sleaze Nation.

The promotion has been devised by marketing consultancy KHWS.

The magazine has built a solid reputation among clubgoers, with a readership now estimated at 50,000.

Red Stripe recently pulled out of mainstream advertising in favour of sales promotion, which it hopes will re-establish the brand's cult status.

Nigel McNally, Charles Wells Brewery commercial director, comments: 'Red Stripe customers do not respond well to normal advertising.

'We are trying a form of word-of-mouth communication, to let people discover the brand rather than use mainstream communications.'

Last year, Charles Wells Brewery acquired the London music venues Brixton Academy and Shepherd's Bush Empire, enabling it to gain Red Stripe pouring rights and to link Red Stripe with the 'credible' music scene (MW February 5).

Twentieth Century Fox UK Home Entertainment is looking for a marketing director to handle the promotion of its video business.

The move follows the promotion of Gary Ferguson, who last held the post, to senior vice-president of UK Home Entertainment.

The new post-holder will report to Mary Daily, who is the European vice-president for marketing in the Home Entertainment division. Daily is understood to be seeking an outside candidate for the post.

Daily is known for turning the promotion of video releases into events in their own right. When the video of The Full Monty was released, Daily organised groups of male strippers to perform on TV stations and in retail outlets across Europe.

Fox Entertainment Group, which is owned by international media company The News Corporation, has had a buoyant year, with film and video releases such as The Full Monty, There's Something About Mary, and Titanic.

Titanic has so far turned in profits of pounds 1.2bn, making it the most profitable film of all time. Its video sales are expected to exceed pounds 40m worldwide by Christmas, which will make it the highest selling video to date, beating Disney's The Lion King.

Babyliss, the hairdryer brand owned by Conair Corporation, launches the company's first television advertising campaign next week through agency Bean Andrews Norways Cramphorn. The 20-second com-mercial for the Babyliss Rapide Style & Dry styler features two girls with wet hair competing to be ready for a night out. The one using the Rapide finishes first and dances on the bed, while the other struggles to style her hair with an old-fashioned styler. The voiceover, by DJ and youth TV presenter Jayne Middlemiss, explains 'Babyliss girls always finish first'. The ad finishes with the endline 'Rapide. High speed styling and drying'.

Currys and Dixons stores will sell integrated digital TVs for the first time this week. The Hitachi widescreen idTVs will be available in 250 Currys stores and 110 Dixons.

Shell and Texaco have abandoned plans to combine their marketing and refining operations in Europe.

Italian Parma ham producers have lost their bid through the Appeal Court to prevent Asda from selling Parma ham which was sliced and packaged in the UK.

Dell has appointed Peter Blampied, former Compaq general manager for the small and medium business sector, as marketing director of its UK preferred accounts division.

Oftel, the telecommunications regulator, is to investigate whether powerful telecoms owners should be made to rent parts of their networks to rival companies.

AXA launches the television credits to support its sponsorship of the FA Cup on ITV this Sunday, during the draw for the third round. The break bumpers were created by TBWA GGT Simons Palmer.

The takeover of drinks company Matthew Clark by Canandaigua has been given the go-ahead by trade and industry secretary Peter Mandelson.

Scrabble, the word game owned by Mattel, is to be redesigned.

Interflora has appointed Steven Adams as brand marketing manager. He will oversee a new TV, press, radio and poster advertising campaign for the brand.

One-2-One, the mobile phone operator, has put a video booth into its sponsored football club Everton's Goodison Park ground enabling fans to ask players questions. Answers will be displayed on the club's big screens on match days.

L'Oreal is to launch a new permanent hair colour range, Feria Colour. It will be available in 19 shades from January 1999.

Nomura, the Japanese bank, is creating a new pub chain called the Unique Pub Company consisting of 2600 outlets which will be floated on the Stock Market in 2001.

Riva Clubs, the bingo chain, has appointed Michael Murphy, formerly head of trading and entertainment at Mecca Bingo, as marketing and promotions manager.

EMI's music chief Ken Berry could earn up to dollars 7.44m (pounds 4.6m) a year under a new contract.

Walkers crisps has joined forces with News International in a huge promotion to deliver free books to schools in support of the National Year of Reading.

The scheme backed by David Blunkett Secretary of State for Education and Employment means that schools can collect more than one billion tokens

which will appear in News International newspapers and on Walkers crisp and snack packets.

Batches of 100, 250 and 500 tokens can then be exchanged for different value books.

Martin Glenn, president of Walkers Snack Foods says: 'Improving the nation's literacy standards is something that everyone should get involved in - we are delighted to be supporting the Government's National Year of Reading with this activity.'

The scheme even has the backing of former England football captain and face of Walkers Gary Lineker. He says: 'Even if you want to be a footballer being able to read is vital.'

The Sun, The Times, Sunday Times, News of the World and Walkers products will all carry the tokens from January 1 through to the end of March.

More than 33,000 schools have been invited to get involved with the scheme and so far 16,000 have registered their interest.

Consumers can also collect tokens and send them to their nearest registered school.

London Transport will be relying on customers' honesty in a trial which scraps the inspection of travel passes to cut buses' waiting times and ease traffic congestion.

Customers with pre-paid tickets go to the right-hand side of a central barrier as they board the bus and aren't required to show the driver their passes before taking a seat.

Those without a ticket have to pass along the left-hand side of the barrier and pay the driver for a ticket. Extra inspectors have been recruited for the trial, called Passright, which is being carried out in north London on bus routes W3, W7, 41 and 144.

According to London Transport around 70 per cent of travel is paid for in advance. A spokeswoman for London Transport says: 'Nine months will be a reasonable period to assess the scheme's impact on revenue and whether customers like it.'

The schemes success depends on customers volunteering to pay for tickets when necessary. 'We are hoping our customers will be honest', LT's spokeswoman comments.

London Transport has no plans to increase the pounds 5 penalty for failure to produce a valid ticket.

Virgin Direct has awarded its pounds 15m ad account to Rainey Kelly Campbell Roalfe with a brief to produce a branding campaign for its portfolio of PEPs, pensions and life insurance products.

Rainey Kelly won the business after pitching against incumbent TBWA GGT Simons Palmer and the new branding campaign is expected to launch next spring. But TBWA retains the business for Virgin One bank.

The appointment of Rainey Kelly was overseen by Steve Taylor, brought in by chief executive of the Virgin Direct group Rowan Gormley to move Virgin Direct away from disparate product advertising and towards a more unified brand.

Taylor appointed Rainey Kelly to conduct a review of the brand in September, and later pitted the agency against TBWA in a strategic and creative pitch.

Taylor says: 'This is the culmination of a brand project, I didn't want a beauty parade. I was looking for a more integrated approach to the advertising, where the components fit together rather than disparate product advertising.' But he says that the pounds 15m budget is a 'projected figure'. This year, Virgin Direct has spent pounds 11.5m on advertising and Virgin One has spent pounds 1.6m (ACNielsen-MEAL).

The Daily Record newspaper has called a pitch for its pounds 2m creative advertising account.

Scottish agencies Coltas, 1576 and Frame Cunningham Holden Edy have all been invited to pitch alongside the incumbent Faulds Advertising.

The move follows the appointment of Martin Clarke as editor in March and a subsequent repositioning of the Mirror Group-owned newspaper.

Steve McLaughlin, circulation and marketing director of the Daily Record and Sunday Mail, says: 'The successful agency will have to produce a campaign that will be used to encourage readers to sample the newspaper.'

Since Clarke's appointment, The Daily Record has attempted to offer its readers more in-depth coverage. In August the newspaper also launched a new Saturday magazine.

The Daily Record outsells the Scottish editions of The Sun and The Mirror put together. It had an average net circulation of 675,065 for the period May to October, down 2.45 per cent year on year. The Scottish editions of The Sun and The Mirror are understood to have circulations of about 375,000 and 90,000 respectively.

Bell's Whisky's new pounds 2m TV campaign through Court Burkitt breaks this week. The campaign, asks 'What have you been doing while Bell's has been maturing?' and shows a montage of images of experiences enjoyed by the brand's target customers, males aged 25-35. The 60- second execution, which concludes with 'Eight years. Well spent', will be followed by four individual ten-second executions. The campaign is the first for Bell's since it became part of drinks giant Diageo. UDV, the Diageo subsidiary of which Bell's is a part, plans to spend pounds 20m on marketing support over the pre-Christmas period.

Mustoe Merriman Herring Levy has taken over the creative account for the Imperial Tobacco brand Golden Virginia from Lowe Howard-Spink.

Mustoe already has the account for the company's Lambert & Butler cigarette brand, which it snatched from Lowe in January last year (MW Jan 24 1997).

Earlier this year the Lambert & Butler brand knocked Gallaher-owned rival Benson & Hedges from its spot as the UK's top-selling brand (MW July 16).

Golden Virginia is UK's largest hand-rolling tobacco brand and has not been advertised in the UK for more than a year.

It is understood that Imperial intends to spend about pounds 2m supporting the brand, which has a 57 per cent share of the UK market, excluding duty-free tobacco and illegal imports.

Golden Virginia's market share has increased by two per cent since last year, according to Imperial Tobacco's preliminary results for the year ended September 26 announced on Monday.

The UK roll-your-own market has declined by more than 11 per cent over the last year to 1,790 tonnes.

But according to the chairman's statement at the results, 'This has been more than offset by the continuing growth in smuggled and bootlegged product'.

Imperial recorded a turnover of pounds 4bn up four per cent on last year from pounds 3.8bn and operating profit of pounds 436m up 12 per cent from pounds 391m. Operating profit in the UK accounted for pounds 319m of this, up two per cent on last year from pounds 312m.

BT has put out the tender for its main creative advertising account through the Official Journal of the European Community. The deadline for requests to participate is December 9.

ITV's The South Bank Show is to be sponsored by Andersen Consulting in a deal negotiated by Media-polis Extra Time with ITV saleshouse Granada Media. Sponsorship credits were created by Young & Rubicam.

McCann-Erickson Manchester has won the account for the Merseyside development agency The Mersey Partnership.

Publicis has acquired a 60 per cent stake in Venezuelan ad agency 67 Publicidad. Its clients include British Airways and Hewlett-Packard.

Peroni beer is understood to have shortlisted White Door - the incumbent, Cold Eye, Court Burkitt and Maher Bird Associates for its ad account.

Court Burkitt has hired Jos Marcon from Bates 141 as a director to head a new sales promotion arm.

Jim Beam Brands Worldwide is understood to be seeking a new ad agency for its global creative and media account for its brands, worth an estimated pounds 15m. It parted company with Fallon McElligott last month.

Lewis Moberly, the design agency, has appointed former Abbott Mead Vickers.BBDO direct marketer Annette Donnelly as managing director.

IPC is understood to have shortlisted Duckworth Finn Grubb Waters, Mother, Fallon McElligott and Delaney Fletcher Bozell for the Loaded, NME and Melody Maker titles creative accounts.

Dolphin, the design consultancy, has been bought by marketing consultancy Mercier Gray. The new enterprise will be called Dolphin MG.

The Institute of Practitioners in Advertising has called for a single economic regulator for television, who will be responsible for commercial services and the BBC.

J Walter Thompson has produced a series of five press advertisements highlighting some of the more exotic Colman's mustards such as honey and peppercorn.

Hurricane design consultantcy has produced new packaging for the Sara Lee brand Radox Herbal Bath.

Ogilvy & Mather is launching a campaign for SmithKline Beecham's NiQuitin brand, which helps smokers quit.

St Luke's faces a review of its pounds 9m Midland advertising account after the decision by the bank's parent HSBC to axe the brand name from the UK high street.

HSBC announced last week that it is to rebrand most of its wholly-owned bank subsidiaries worldwide with its own name, and will scrap other trading names. These include Marine Midland Bank in the US, the British Bank of the Middle East and Midland in the UK.

It is understood that a single ad agency could be appointed to handle the HSBC brand worldwide.

Richard Beck, head of external relations for HSBC, says the details of how the rebranding exercise will be communicated have yet to be decided. 'We haven't taken a decision on how to organise the advertising. An announcement ad on the rebranding goes out this week. Which agency handles the work beyond that is something we will have to review,' he says.

The final decision will rest with the HSBC corporate affairs department, headed by director Michael Broadbent, although it is thought Mary Jo Jacobi, advisor to the Midland board who runs the marketing division, will have a role.

St Luke's has helped to produce the ads announcing the name change, and will continue to work on the Midland brand until the end of next year when the rebranding is expected to be completed.

HSBC has confirmed that First Direct, the telephone banking arm, will retain its name.

The Central Office of Information has shortlisted two roster agencies to pitch for a pounds 4m account to promote a telephone hotline aimed at helping job seekers find work.

The Government information body refuses to say which agencies are pitching for the Department for Education & Employment account, though it is believed St Luke's and DMB&B are involved.

The national Jobs Hotline will be launched in January and will run until March. It aims to find work for 30,000 job seekers. Callers ring the hotline and their call is connected to Employment Service local teams, which are being set up to run the new service. Advisers have access to a database with details of over 300,000 UK vacancies. The adviser can help to set up job interviews.

The initiative was unveiled last month by Education & Employment Secretary David Blunkett. It follows a trial of three 'Jobcentre Direct' pilot schemes, which have been run this year offering out-of- hours telephone advice to job seekers.

Calvin Klein Cosmetics has appointed Initiative Media to handle its pounds 60m centralised pan-European media buying account.

Initiative previously handled all TV buying across Europe and CIA Medianetwork bought all other media for the Unilever-owned fragrances and cosmetics business.

The two incumbent networks competed for the 'winner-takes-all' account after a pitch was called in September.

Former Calvin Klein Cosmetics UK managing director Shelley Smyth was promoted to become the company's first vice-president marketing and sales development for Europe in October.

Smyth ran the pitch alongside senior vice-president/general manager Europe Lynne Bonson.

A spokesman says: 'The company feels that consolidating all media into

one agency will create a more coherent approach.'

It will continue to work with Initiative offices in each country as well as the pan-European office in London.

The loss of the prestigious Calvin Klein account will come as a blow to CIA, which has suffered a run of account losses - including BT's pounds 110m TV buying account - and redundancies in recent months.

Six directors and other staff lost their jobs on October 30 (MW October 22), and former chief executive Mike Elms moved to a international client development role (MW October 15).

Calvin Klein Cosmetics brands include unisex fragrances CK one and CK be, Eternity, and Escape.

Outdoor specialist Portland has been hit by fraud thought to have cost the company's contractors up to dollars 2m (pounds 1.2m) in the Czech Republic.

The poster buyer, part-owned by WPP Group, opened an office in Prague called Portland Praha. But the operation suddenly collapsed owing money to poster contractors, including the Czech division of Avenir.

Portland management in the UK is pressing for criminal charges against figures in the Czech advertising industry, including two former managers.

The parent company hired a fraud detection agency called Network International and is working with the British Embassy and the Czech police to resolve the situation.

Portland does not accept liability for the money owing to the contractors. Dennis Sullivan, Portland chairman and chief executive, says: 'This is not going to affect our investment plans elsewhere in the world.' The company is about to launch in India, with plans to open six offices.

WPP is expected to increase its stake in Portland from 33 per cent to 61 per cent in the next four to six weeks. The marketing services group will buy Dentsu's 28 per cent share, as revealed in Marketing Week (March 5).

Portland is entering a joint venture with advertising agency Hindustan Thompson Associates in India, with offices due to open in Bombay, Delhi, Calcutta, Bangalore, Madras and Hyderabad.

Newly-merged agency MediaCom/TMBG has won the media buying account for fitted kitchen manufacturer Simply Kitchens.

The pounds 3m account was won in a pitch against Carat Manchester and covers national and local press as well as radio. However, the majority of the media spend is weighted in the South of England.

MediaCom/TMBG deputy chairman Bill Jones says: 'We won because we demonstrated we could buy media competitively both locally and nationally.'

Nick Porter, Simply Kitchens buying and marketing manager, says: 'MediaCom was professional and flexible in servicing our needs.'

Simply Kitchens is a new company and is based in Bedford. It was founded this spring by Jack Matthews, who also set up the Hygena range of fitted kitchens, which was eventually sold on to MFI.

Simply Kitchens has formed an alliance with furniture goods store Harveys, also a MediaCom/TMBG client.

The kitchen manufacturer has concessions in 13 of Harveys 350 stores nationwide. Next year, Simply Kitchens aims to expand the number of these concessions at the rate of four a week. If this expansion is carried out, media spend is expected to rise to pounds 5m.

MediaCom has a solid portfolio of retail accounts, including Carpetright and Kingsbury, part of the Wade group of furniture stores.

Mail order giant JD Williams has appointed Media Business North and a new company set up by Media-Vest Manchester to handle its pounds 10m media buying accounts.

The Manchester-based clothing mail order company held a three-way pitch for the account after deciding to part company with Carat Manchester (MW November 5). Carat Manchester had worked on the business for more than five years.

MediaVest Manchester is to set up an offshoot called Mediavision to handle its share of the JD Williams business in order to avoid conflict with its Littlewoods mail order business.

The agency already has a Scottish office which trades under the name of Mediavision.

It is understood JD Williams will use one of the two successful agencies to handle the Fashion World and Classic Combination mail order accounts and the other to work on JD Williams Catalogue, Ambrose Wilson Catalogue and Oxendales Mail Order accounts.

JD Williams operates a large off-the-page business and is part of the N Brown Group, which claims it is the largest direct catalogue company in the UK.

MBS Media has won the pounds 18m media acccounts for Moben Kitchens and Dolphin Bathrooms, which are both part of the Limelight Group.

Carlton Communications has announced pre-tax profits up seven per cent at pounds 340m, on turnover up five per cent to pounds 1.8bn for the year ending September 30.

Storehouse is understood to have shortlisted Equinox, Carat Manchester, New PHD, BBJ, Walker Media, Motive, and Media Business for its media buying and planning account for Mothercare and Bhs.

Guardian Media Group has promoted Carolyn McCall to the post of deputy managing director of Guardian Newspapers. She will retain her role as commerical director with board responsibility for the ad department.

JC Decaux, the outdoor contractor, is forming a joint venture with Glasgow-based Trainer Outdoor Advertising in an attempt to capture the Scottish street furniture contracts held by the More Group. The partnership, called TrainerDecaux Scotland, will have Trainer's managing director Chris Trainer (left) as managing director and JC Decaux's chief executive Jean-Francois Decaux as chairman (right).

Bristol-Myers Squibb, the pharmaceuticals company, has put its pounds 60m US consumer prescription drug media account up for review. Western International Media, California, is the incumbent.

Disney Channel marketing director Michael Spencer will leave the company at the end of this year to set up his own marketing and advertising consultancy. The company is searching for a replacement.

Sky has made two internal promotions to new posts in its Sky Networks team, which looks after the station's wholly owned channels. Bruce Steinberg becomes general manager, while Scott Menneer takes over as marketing director.

The Sunday Times, The Daily Telegraph and Sunday Business have been ranked as the top three most useful Sunday newspapers by UK business leaders for keeping them informed, according to MORI's survey of top businessmen.

The Mirror is to start a weekly cooking column featuring top chef Marco Pierre White in its Saturday TV listings magazine, called The Look.

The Royal National Lifeboat Institution is looking for sponsors for its Sail Safari, an obstacle race involving teams using dummy boats in Battersea Park next September, during the RNLI's 175th anniversary year.

Former Talk Radio managing director Paul Robinson has joined the Disney Channel as vice president and managing director.

Robinson replaces Tom Wszalek, who was the cable station's previous managing director. Wszalek moves to the new projects division of the entertainment group and will look at opportunities on the Internet and on digital TV.

Robinson says: 'Disney is the biggest entertainment company in the world and I couldn't turn this chance down. This is a new venture for me and for the next month or so I will be listening and learning.'

Robinson will report to David Hulbert, senior vice president and managing director of European broadcasting, Walt Disney Television International.

Hulbert says of the appointment: 'Whether your consumer is a listener or a viewer, understanding your audience values and delivering on that is essential to being a successful broadcaster.'

Three weeks ago Robinson was linked in speculation with a consortium attempting to take over media group Golden Rose Communications, which owns London radio station Jazz FM.

At the beginning of November Robinson's management buyout team lost out to Kelvin MacKenzie's News International-backed bid to buy national speech-based station Talk Radio for pounds 25m.

Media auditor The Billett Consultancy predicts good news for

advertisers next year with more people forecast to watch commercial TV - and therefore the commercial breaks.

According to Billett, the BBC's share of audience is expected to drop below the 40 per cent threshold for the first time by the end of December this year. Commercial viewing should remain above 60 per cent of all viewing throughout 1999 because such factors as the continued growth of Channel 5 and satellite and the resilience of Channel 4. Billetts believes ITV will continue to lose audience next year, although the rate of decline will be slower and peaktime viewing will be bolstered by the decision to scrap News At Ten.

But the UK's biggest channel will still be able to command a price premium from advertisers, some of whom are locked into 'share of broadcast' deals where they have committed a proportion of their TV spend to each ITV saleshouse.

Billett predicts ITV's price premium for adults will move up from 10 per cent in 1998 to 12 per cent in 1999. Andy Pearch, Billett managing director, says: 'ITV is still losing audience more rapidly than it is losing cash.'

The report, called An Advertiser's Guide to the Broadcast Negotiation Battlefield, says that while last year's key issues were the introduction of share of broadcast deals and the impact of the World Cup, for 1999 they will be external factors such as global economic conditions and the effect of the Millennium celebrations on advertisers.

ITV is about to enter the unmapped territory of leisure and lifestyle programmes in its never-ending search for big peaktime audiences.

Programmes about cookery, do-it-yourself, gardening, travel and cars have been traditional fodder for minority channels such as BBC2 because they were never seen as crowd pleasers. For years the only peaktime ITV show in this mould was the holiday programme Wish You Were Here, which grew up alongside the boom in package holidays.

But for the first time, the factual entertainment show is showing promise as a hot ITV property because of two related phenomena which have changed the channel's programming culture.

The first has been the rise of popular factual series in peaktime. Dubbed 'docusoaps', series such as Airline and the 'From Hell' strand have been central to ITV's strategy over the past year to boost its slipping market share. David Liddiment, director of programmes at the ITV Network Centre, made it one of his first priorities to copy what the BBC was already doing and put these series about real life into the heart of the schedule.

One of the first people he poached was Grant Mansfield. Former managing editor of network features at the BBC, Mansfield was responsible for commissioning docu-series such as Airport, Driving School, Vets in Practice and Holiday Reps.

He took up the post of ITV controller of documentaries features and arts last November, and was at the forefront of this new wave of documentaries with human dramas at their centre. They were pacy, with more scenes per half hour in a style usually associated with fictional drama such as EastEnders, and told compelling stories about real people who became stars in their own right.

Meanwhile, the remarkable success of a simple decorating show on the BBC was changing the way lifestyle programmes were viewed. Changing Rooms, a DIY show about two sets of neighbours who redecorate rooms in each other's homes, attracted audiences of up to 7 million at its peak on BBC2 (a BBC2 programme does well if it draws 2.5 million) and after it was transferred to BBC1, it hit 11 million at the height of its popularity. The show starts its fifth series in the new year.

Changing Rooms proved these sort of programmes have the potential to pull in the big audiences needed for primetime ITV viewing. Now ITV is looking to replicate this popularity, drawing on its own successes in the docusoaps. Mansfield says: 'It's about telling good stories effectively with brevity and pace and style.'

ITV is now filming its own home improvement show to be screened in peaktime. Called Better Homes, it will be presented by Carol Vorderman.

Like the BBC's Changing Rooms, the show features two families each

week who have a different room transformed by pro- fessional interior designers. The family who live in the house which goes up most in value after the makeover win a cash prize.

Mansfield stresses the importance of responding to the people in the programme. He says: 'You need warm, empathetic characters.'

It is often speculated that lifestyle series have mushroomed because, as the viewing public becomes more affluent, there is a growing preoccupation with food and decor. ITV wants to replace its gameshow image with more dramas and documentaries to mirror this change in public taste.

Peter Bazalgette, the man acknowledged as the king of lifestyle television and responsible for such hits as Changing Rooms, Ground Force and Ready Steady Cook, has an interesting theory about the success of lifestyle programmes. He argues that consumerism is the new religion in a secular age, and that the way we choose to spend our money is how we have come to define ourselves.

But Nikki Cheetham, managing director of Bazalgette's production company Bazal, says: 'What we want is to be told a good story. In the past, we only got that from dramas such as Coronation Street or Cracker. We are not manipulating these people's lives, but we are structuring real life into a format.'

From a commercial point of view, successful leisure and lifestyle shows are good value because they are cheap to make. They also have strong brands that can be exploited with spin-offs such as magazines. The programmes are also attractive to advertisers. If a viewer has been watching a show that suggests ways to improve his or her home, the commercial breaks are a perfect environment for targeted advertising.

But one of the major drawbacks with lifestyle and leisure programming is that there are a limited number of subjects with mass appeal. ITV has to reach such a broad audience that only a handful of pastimes - such as travel - are an option.

The ingenuity lies in creating new formats that encompass these existing areas. This search for originality within limited subject matter also means the lines between different programme genres are becoming increasingly blurred.

Mansfield admits he is in talks with Bazalgette about a new travel entertainment show. If lifestyle programmes can work as well for ITV as they have for the BBC, expect to see ITV make more use of this new weapon in its updated programme armoury.

There is a passage from Lewis Carroll's Alice in Wonderland which reads: 'Would you tell me please which way I ought to go from here?' said Alice.

'That depends a good deal on where you want to get to,' said the Cat.

'I don't much care where,' said Alice.

'Then it doesn't much matter which way you go,' said the Cat.

Unlike Alice, most advertisers do know where they want to go with their advertising. They want value, communication, efficiency and effectiveness. Clients could, however, be forgiven for feeling as if they have fallen through a rabbit hole into a topsy turvy land when it comes to making sense of television airtime trading.

Understanding how their agency buys airtime and deciding whether the system should remain the same in the future is no mean feat, but the Incorporated Society of British Advertisers is asking its members to do this.

First, some background. If you are a television advertiser your agency will probably have told you of the substantial discount it has achieved off the station average price (SAP) cost per thousand. How is this magical average calculated? You divide all advertisers' expenditure on airtime on ITV (the demand) by all the viewing of ITV by your target audience (supply). Then you compare this station average cost per thousand viewers with the cost per thousand you paid. Simple.

Except that different sales houses and agencies calculate SAP differently. And SAP is only useful for working out ITV prices. But the ITV SAP is still used as the benchmark for all channels.

In this system, virtually everyone gets a discount. Discounts vary hugely, not only by spend and negotiation power, but also by channel and

what time the ad appears. A guaranteed share of spend does not guarantee an audience.

The real lunacy of it all is that SAP is not even the real average price paid for a particular audience. While one side of the calculation depends on the viewing by a specific audience, the other side is about money spent on advertising regardless of who the audience is.

Using SAP discount as a primary measure of performance and value hides the true cost of reaching your audience and makes no guarantee about delivering a given weight of advertising for a particular sum of money.

In an inflationary market - one where advertiser demand increases faster than audience supply - this is a nightmare. This is because with the current system the only thing that is guaranteed is the discount, not the absolute price. So there is no brake on the increase of cost nor a safety net to stop weights of advertising falling lower than planned for the advertiser.

So how do you move from Wonderland back to the real world? Focus on absolute price not just discount; get involved in evaluating the relative value - as opposed to the discount - of the different channels and the parts of the day your ad appears. You should also encourage any strategy, including fixed price, which guarantees communication delivery as opposed to discount alone. In short, unlike Alice, care very much indeed about where you are going with your television budgets.

All things considered, the politicians were remarkably restrained about ITV's generous treatment by the Independent Television Commission the other day.

Yes, I know Gerald Kaufman, chairman of the Culture Select Committee, said it was a new milestone in the dumbing down of Britain. And John Major described it as 'a grave mistake' and Paddy Ashdown made clear his disapproval.

But that was about the ITC's decision to let ITV move News at Ten. They didn't turn a hair when the regulator announced that, at the same meeting, it had also decided to cut pounds 90m off the annual payments ITV makes to the Treasury.

Had Mr Kaufman known this when he learned of the death of News at Ten, one dreads to think what further invective he might have heaped on the heads of the hapless ITC. Yet by the time the regulator made this second major announcement of the week, he and the other politicians had apparently lost interest.

There was no ready-reckoning of how many hospitals or nurses that pounds 90m was paying for. Or schools and teachers.

Both Tony Blair and Culture Secretary Chris Smith had made it clear - in advance and in public - that they would prefer News at Ten to stay where it was. Yet neither seems to have bothered to let the ITC know they would also prefer the Government to hang on to that pounds 90m. And nor did the 'Iron Chancellor' Gordon Brown.

Perhaps they thought the impoverished ITV companies were as good a cause as any for the money. If so, the Granada Group results - out the same morning - might have alerted them to the fact that the wolf isn't quite at ITV's door yet.

Not only were Granada's TV profits up 36 per cent, at pounds 255m. But the company proudly announced that its advertising revenue had risen 12 per cent in the second half and that the scrapping of News at Ten would generate 'tens of millions of pounds' in extra ad revenue. Add in the pounds 30m-per-year cut in its Treasury payments (from Yorkshire, Tyne-Tees and its stake in GMTV) and it was little wonder the Granada share price rose so substantially.

So what was the thinking behind the ITC's decision to reduce most of the ITV companies' Government payments?

It was the final acknowledgment that the infamous blind auction introduced by the Thatcher government had thrown up enough anomalies to destabilise the ITV system and condemn at least one company - GMTV - to a life without profit.

GMTV had put in a cash bid pounds 20m a year higher than that of the incumbent breakfast station, TV-am, so taking away its licence and putting the TV-am staff out of work. Since then it has made a profit in only one

year and its losses have steadily accumulated. Some might say this proved that TV-am's managing director Bruce Gyngell was right and GMTV and the ITC were wrong.

The ITC's solution was not to say 'Come back Bruce, all is forgiven' - even he didn't expect that - but to cut GMTV's Treasury payments by no less than pounds 30m a year. Former TV-am journalists were less than delighted at what they saw as GMTV being so well-rewarded for its ill- judged gamble.

The reason for this particular decision, according to the ITC's head of economic affairs, Sheila Cassells, was that TV-am's revenue forecast in its licence bid had been very similar to those of GMTV and the third applicant. And the ITC judged that it was the lack of advertising revenue that had been GMTV's problem, not the size of its bid. She said none of the bidders had foreseen the extra competition posed by Channel 4's Big Breakfast, cable and satellite, and Teletubbies on BBC2.

Now some might say - and indeed we did at the time - that this was exactly the reason the licence auction was so daft. The system invited large corporations to bet money on a rapidly-changing TV market that no one could forecast with any certainty - and, of course, to bet on which of the ITV regions would attract no meaningful competitors, allowing the incumbent to bid low.

Notoriously, Central Television won its licence with a pounds 2,000 cash bid (plus a proportion of advertising revenue), while Yorkshire, Meridian and Carlton bid more than pounds 40m each. (It was no surprise when Central said no thanks to the ITC's new offer. Had it accepted, it would be paying pounds 18m a year more.)

The potential for such anomalies was acknowledged in the legislation that set up the auction, for it allowed the companies to renew their ten-year licences after just six years, under new financial terms. This was to cope with any unforeseen circumstances that might drastically alter the TV market since the bids were calculated in 1991. And this time, instead of inviting blind bids, it would be for the ITC to calculate the value of the licence 'as if it were put out to competitive tender'.

With hindsight, of course, this was an impossible task, given the huge disparities of the 1991 bids. But what the ITC did do - sensibly - was to rework the licence payments so they better reflected the financial strength of each company, by basing 75 per cent of the payment on advertising revenue, and only 25 per cent on the cash bids.

Maybe this was all too complicated for the politicians - unlike the scrapping of News at Ten, which everyone can understand. But once Messrs Kaufman et al wake up to the missing pounds 90m, ITV and the ITC can surely expect yet another roasting.

Novartis last week named Godfrey Axten as UK chief executive for its newly merged nutrition and over the counter business, Novartis Consumer Health UK (MW November 26). But according to City analysts, the creation of the merged division will be a precursor to the Swiss pharmaceuticals and healthcare giant selling it off.

Novartis was formed in April 1996 from the pounds 32.8bn merger of Ciba-Geigy and Sandoz, and according to one analyst: 'Novartis said there were synergies between pharmacy, animal health, nutrition and OTC, but the merger only benefits the weaker products. It does not benefit pharmaceuticals.'

In August this year, the company initiated the merger of its consumer health and nutrition businesses to form the consumer health division. It led to 380 job losses and is due to be completed by January 1999.

It is the job of Novartis Consumer Health worldwide chief executive Thomas Ebeling either to turn the business round and build its main brands Ovaltine, Nicotinell and Isostar or prepare the business for a sell-off.

Novartis UK country president EJ Fullagar admits a sale has been considered: 'Novartis decided to combine these two businesses after considering other strategic options. These included sale to a third party and acquisition/merger with a related company, or spinning off the business.'

He adds: 'Based on our analysis, we felt that integrating nutrition and consumer health provided the strategic rationale and the greatest opportunities for value creation.' He does not deny that a sale is still

being considered.

'When it {Novartis} put nutrition and OTC together it was a cosmetic reorganisation. Novartis could quit this particular sector in one go,' says one City analyst.

The pharmaceuticals world is ripe for further consolidation. Growth is dependent on new blockbuster products and combining research and development resources has strong commercial logic. In 1995, Glaxo and Wellcome merged to create the second largest drugs company in the world, behind US giant Merck.

At the end of last week, France's Rhone-Poulenc and Germany's Hoechst confirmed negotiations to merge their pharmaceutical and agrochemical businesses, as a precursor to a full merger. The new company will leapfrog Novartis in the agrochemicals market to become market leader.

But two attempts at mega-mergers this year have broken down - Glaxo Wellcome with SmithKline Beecham and American Home Products with Monsanto.

Analysts say Ciba-Geigy and Sandoz had no choice but to form Novartis as the other players began to plot mergers. But it left the company with a disparate product portfolio. To tidy it up, they argue that the most appropriate action would be to spin off the consumer health business.

Nonetheless, Novartis itself insists functional foods - food products which contain mild drugs for health benefits - are the way forward. They can be sold at a higher margin than their conventional food counterparts and they boost profitability.

In March 1998, Novartis reported its first set of full-year results with sales up 19 per cent (on a pro-forma basis) at Swiss francs 31bn (pounds 13.5bn), and operating income notionally up 38 per cent at SF6.7bn (pounds 2.9bn).

Of its three groups, health, agrochemical and nutrition, the last was the only one to show a fall in operating profits - by 24.3 per cent to SF284m (pounds 123m).

But, says one analyst, functional foods still cannot measure up to the margins of pharmaceutical products: 'I don't think it is core business - pharmaceuticals and agrochemicals make the most profit. It would be better if the OTC and nutrition division went. I believe it will go in due course.'

The 'life sciences' products - pharmaceuticals and agrochemicals - are more lucrative and all the leading companies are racing to bolster their standing in the area, a major factor behind the Hoechst/Rhone- Poulenc merger.

Analysts believe Novartis should concentrate on life sciences, rather than jumping on the functional foods bandwagon.

One agrees that the functional foods market will grow, but believes it is not necessarily something Novartis should get in to: 'Functional foods is a diversion for Novartis, it wants to be a pharmaceutical company, not a broad healthcare business.'

Even so, Consumer Health UK chief Axten told Marketing Week (November 26) that the company plans at least two launches in the functional foods sector during next year.

Analysts say Novartis is planning to launch a rival to Johnson & Johnson's low cholesterol margarine Benecol next year. Unilever is also expected to launch a functional margarine.

There is persistent speculation that Novartis' Gerber baby foods brand may be sold in the US.

'We believe it overpaid for Gerber and it was basically a mistake and will remain a blot on the company unless there is further integration,' another analyst says.

Certainly its rivals believe Novartis is struggling for leadership.

The feeling is that 18 months ago Novartis was a serious threat to rivals in the consumer health market, but after the creation of the combined OTC and nutrition businesses, it has lost its way. The source's opinion mirrors that of the City.

An alternative strategic option for Novartis could be hiving off individual brands, such as Gerber, as it is understood the company does not have the cash to make acquisitions. Another possibility is to form strategic alliances.

Last week, Novartis announced a joint venture with Japanese personal care and sanitary product company Kao. This could be the first of those alliances.

One of its biggest consumer brands Ovaltine is coming under increasing pressure from Smith-Kline Beecham's Horlicks. The jury is still out on Ovaltine Power, which was launched with pounds 2.5m ad spend earlier this year. Energy drink Isostar is also up against SmithKline Beecham's market leader Lucozade.

Another analyst says: 'Sports nutrition - Isostar - doesn't fit as a natural niche in the Novartis group. I am happy with OTC and the idea that mild drugs in food (functional foods) might offer a longer term solution but sports drinks is a strange fit.'

In the nicotine replacement market, Nicorette by Pharmacia & Upjohn is the market leader over Novartis' Nicotinell. 'Nicotinell is not material to the whole company's performance. In fact that whole group is performing badly and it would be better if they divested the whole lot,' the analyst says.

Novartis has to set out its stall and decided where it wants to compete. With more consolidation in the market likely, and more competition in the functional food arena assured, Axten in the UK - and Eberling worldwide - must make stock market investors more aware of a cohesive strategy capable of boosting their confidence in the Novartis merger.

For the first time the Department for Education & Employment is to sit down with the National Consumer Council and discuss the role of advertising and sponsorship within schools.

Brands from McDonald's to Tesco are using schools as a medium for advertising to children through sponsorship of educational equipment. Business is becoming involved in schools through the Government's Education Action Zones. But there is considerable disquiet among consumer groups, educationists and the brand owners themselves as to how far this should go.

The stakes are high - school children are a consumer group worth pounds 300m to advertisers, according to the NCC, which drew up voluntary guidelines on sponsorship in schools in 1996. Since then, advertiser-sponsored activity has exploded.

Not only are there no hard and fast rules governing how advertisers should approach this 'captive audience', there is nothing to distinguish between age groups, nothing to monitor cause and effect, and no government input. A situation which could be about to change.

Susan Johnson, the Department for Education & Employment's divisional manager for study support and business and community links, has announced a new DfEE initiative to review business involvement in schools.

The review will not necessarily lead to government-led compulsory guidelines. NCC head of public affairs Diana Whitworth says: 'I would like schools to produce local policies about how to deal with business. They have policies on everything else; it is sensible to have one on business involvement in schools.'

Advertising and sponsorship activity in schools falls under the jurisdiction of the Advertising Standards Authority. The ASA has just reviewed its code of practice, and will relaunch it in the spring. A spokesman says there are tight controls on advertising to children in place, and they are unlikely to have been extended in the new code.

Last Friday, News International and Walkers Crisps launched a high profile cause-related campaign - 'Free books for schools'. This allows schools to stock up their libraries by collecting tokens from NI's papers and Walkers' crisps packets.

Meanwhile, Lasting Impressions, which was the first to launch sponsored exercise books with its Jazzy Books, launched a new initiative - Jazzy Files - last week (MW November 26). Sixth-formers will be offered ringbinders which feature pictures of BT EasyReach pagers, and contain product information and a response mechanism.

Jazzy Files ringbinders are aimed at 16- to 18-year-olds. Lasting Impressions' director Winton Rossiter says the company adheres to the NCC's voluntary guidelines and the books are endorsed by the National Confederation of Parent Teachers Associations.

But many see this as the thin edge of the wedge, with activity likely

to escalate when schools are connected to the Internet. The Government's National Grid for Learning proposes to give every school Net access and every child an e-mail address. Dean Weller, director of Media Shop Holdings' youth arm The First Age, says: 'There is no cast- iron solution to protect children from the Internet advertisers clutches.'

Weller says in order to fulfil the Government's plans, some of the sites will have to be funded by advertisers. He says local authorities would be able to run the local grid and manage mail to children's personal e-mail addresses with software such as 'Net Nanny', but there will be loopholes.

'Expect stories in The Sun saying how paedophile networks got through to kids through a school Internet site,' says Weller.

A melodramatic example, maybe, but to avoid these extremes Weller says the Government should be laying down guidelines so everyone knows where they stand.

But Weller claims one reason why the Government is not keen to lay down the law is that the issue is contentious within the Labour Party: 'If Tony Blair says it's all right to advertise in schools, he will be accused of betraying our children.'

The NCC guidelines state that there should never be a direct call to buy a product, or to pester parents about buying a product. No merchandising slogans or logos other than for identification purposes should be included.

But what is there to stop unscrupulous operators selling through irresponsible programmes? At the moment, nothing, apart from the common sense of head teachers.

This 'common sense' is something that seems to be restraining ad agencies and marketers. But with schools increasingly strapped for cash, 'common sense' could well be swayed by a desperate need for equipment and resources.

Martin Taylor, erstwhile chief executive of Barclays Bank, is close to the Government. He has, among other things, been consulted on the working families' tax credit. There is talk of a peerage.

With this exposure to New Labour principles, it is perhaps unsurprising that he resigned from his job just as soon as it became untenable. Not for him the old Tory style of hanging on to office at all costs, until circumstances force a departure. Tony Blair, who Taylor introduced to Microsoft's Bill Gates and who is said to value Taylor's 'helicopter intellect', is known to favour swift and clean resignations, as Ron Davies would confirm.

No sleaze, of course, in Taylor's case, but plenty of politics. In a remarkably well informed piece in the Financial Times this week, Hugo Dixon recorded how the four knights on Barclays' board - Sir Andrew Large, Sir Peter Middleton, Sir Nigel Mobbs and Sir Nigel Rudd - played key roles in Taylor's departure through the course of four key events. These were the sale of BZW's sales and advisory business through public auction last year, the appointment and subsequently frustrated ambitions of Large, the Russian crisis last August and a board meeting in October, at which Taylor outlined his plans to split the retail and corporate businesses.

Falling out with your board is an occupational hazard for chief executives, but resigning on the spot from such a high-profile listed company is something of a new departure, as it were. In corporate governance terms, the immediately cleared desk will be greeted with mixed feelings.

On the one hand, there is a respectable transparency to such a move. The chief executive has parted company strategically from his board and, therefore, must part company physically too. But in an already bruising market for the bank's shares, shareholders will not have welcomed a move that wiped eight per cent off the value of Barclays at a stroke and can be expected to force the quote lower if a replacement is not found swiftly.

At arch-rival NatWest, relations have been far from easy over the past couple of years between members of a board presided over by chairman Lord Alexander and chief executive Derek Wanless. They have largely succeeded, however, in keeping their dirty linen off the public washing line.

And, in any event, the causes of Taylor's abrupt departure are far

from clear. The usual weasel words about the time being right to hand the management over to someone else fool nobody and undermine the quality of Taylor's decision to go. The Hampel committee on corporate governance argued that shareholders should be let in on the arguments that lead to resignations such as this, not fobbed off with some politburo guff.

All in all, Taylor is to be applauded for a brave move in keeping with the political times of personal accountability and his former colleagues should be admonished for stifling the corporate governance that led to it. In the long term, institutional investors are likely to welcome chief executives who are willing to carry the can, but are unlikely to be impressed by it being carried behind closed doors.

The question now arises whether the helicopter-minded Taylor was the right man for the job. He wanted to split retail and corporate banking as businesses, possibly merging them into UK and continental banks respectively. I don't suppose that Taylor would claim that you have to be particularly helicopter-minded to spot that corporate and retail banking have grown apart and should be enabled to go their separate ways.

Corporate banking is an increasingly demanding business. These days, profitable companies don't really need it. When corporate earnings start to fall, modern corporate banking comes into its own. The next 12 months will sort some of the wheat from the chaff in this regard.

Retail banking, meanwhile, grows increasingly like a commodities market. Or, rather, like branded comestibles. The entry of supermarkets such as Tesco and Sainsbury's to financial services isn't co-incidental in this context. Financial services come increasingly off the shelf and the customer inertia that old financial institutions relied upon will not stand up to competitive aggression.

It follows that the old high street banks cannot continue to be all things to all markets. They may be able to be all things to certain markets. With a Government intent on tearing up the treaty that the financial services industry had drawn up with the investing public over the past decade, the focus will, in any event, have to be on fragmentation.

Banks will have to recognise that they're not in the fast-moving consumer goods market. With the likes of the supermarkets on the financial services case, not to mention those who are deploying the Internet in consumer financial markets, the banks are going to have to discover what they're good at and go for it.

I suspect that this is what occupied Taylor's helicopter mind. There are plenty of banking backwoodsmen who will continue to believe that banks have a divine right to earnings from an amorphous mass of services. They frustrated Taylor; and they're wrong.

But, if rumours are true that Keith Oates, a prime mover in the recent ructions at Marks & Spencer and a force behind the M&S chargecard, is interested in the Barclays job, the knights of Barclays have a chance to make amends to their shareholders and should seize it.

Mister Minit, the fast service franchise chain, plans to open 500 new outlets in Germany. In place of the company's traditional kiosks, the new outlets will be on sites of up to 100 square metres and will offer services such as dry cleaning, film development and printing.

Casino, the French supermarket and hypermarket operator, is to open six new Geant outlets in Poland during 1999. Casino already operates four stores in Poland and has plans for a total of 25.

Disney has scored an own goal in Italy with ads for its Topolino magazine. The campaign features Juventus star Alessandro del Piero refusing to take the field until he has finished reading the magazine. Shortly after filming the ad, Del Piero sustained an injury which will keep him out of the game for the rest of the season.

Migros is suing an ex-management team from Konsum, the Austrian retail chain it acquired in 1993, for the sum of 3 billion Schillings (pounds 150m). The amount corresponds to Konsum's debts when the company was declared bankrupt, in 1995.

Max Maderin, head of Pro Migros AG, a pressure group demanding that Migros transform itself into a limited company, says he will continue with his efforts, despite a declaration by Migros members that the group's statute makes such a move impossible.

Danone has appointed Pedro Medina to head its worldwide mineral water business. Medina, 38, has previous experience at Frito Lay and Procter & Gamble. Danone's brand portfolio includes Evian, Volvic and Ferrarelle.

Infratest Burke, the German market research company, has been bought by the US panel specialist NFO Worldwide. The deal makes Connecticut-based NFO the world's sixth largest market research organisation.

Auchan is to test hypermarkets which stock one line of goods only. Two stores will open initially, in spring next year, one offering only drinks, the other specialising in fruit and vegetables.

Telefunica, the Spanish telecoms operator, has unveiled a Pta. 5,800m (pounds 24m) image makeover, designed to unify its branding on a global basis. The redesign was handled by Diefenbach Elkins, a division of McCann Erickson, and will first appear in advertising this Christmas.

Kaufhof, the German department store operator, is to sell 168 of its outlets to Divag, a joint venture between Metro and Deutsche Bank, due to poor operating results in the company's latest financial year. The deal, which involves 11,000 jobs, becomes effective this month.

Spain's principal political parties - Partido Popular (PP), PSOE (Socialists), Grupo Mixto, Izquierda Unida (IU) and Convergencia i Unio (CiU) - have united in calling for a new administrative body to be set up which would monitor and regulate advertising. If agreed, the proposal could become law as soon as this month. The country's advertising community, however, believes it already faces excessive restrictions on its activity.

According to the Spanish newspaper ABC, the parties are not in agreement about exactly how the new body should be set up. PSOE, IU, CiU and Grupo Mixto believe it should consist of members elected by Parliament while Partido Popular, the ruling party, considers that a 'Consejo Audiovisual' (audio-visual council) should be set up in parallel with the telecoms regulatory authority, CMT, in order to benefit from existing infrastructure.

Whatever its constitution the proposed council has unsettled agency representatives, including Rafael Garc'a Gutierrez, chairman of Autocontrol de Publicidad, the industry's existing self-regulatory authority. Any development, Gutierrez believes, should build on the knowledge and expertise already in place.

Garc'a Gutierrez recognises that Autocontrol has no binding powers, but asserts that it works because there is a clear distinction between it and the agencies themselves. 'Over the past year,' he told ABC, 'there have been 172 rulings of which only two have not been respected. When cases have gone as far as the courts, they have made the same ruling as ourselves.' Furthermore, he does not believe that there exists a clear legislative gap. 'Our guidelines take account of 300 norms laid down by the central, regional and municipal governments, many of which are incoherent or contradictory.'

Jose Manuel Villar, in charge of communications matters for the government, says he doesn't understand this position. The proposed council, he says, 'should be independent'.

'In any case,' Villar adds, 'the text is a transposition of European Union rules which the Spanish Government is obliged to apply.'

Juan Ram-n Planas, director general of AEA, the Spanish advertisers association, told ABC that the advertising sector 'is mature, responsible and a respecter of the law'.

'We want to avoid additional regulations because there is already too much legislation in existence which, whether it means to or not, strangles commercial liberty and that, in the long run, has an effect on GDP.'

It is hard to disagree with this sentiment. Wherever self-regulation has been established, it has proved to be the fastest and most effective way of controlling the behaviour of advertisers, while re- specting their need to function in a competitive environment. Excessive regulatory control is highly damaging to companies operating within a competitive business environment. It weakens the role of advertising in sustaining economic growth while doing nothing to benefit or protect consumers.

Despite his half century in the electrical retailing industry, Dixons chairman Stanley Kalms could be forgiven for feeling just a little overburdened.

He faces an inquiry by the Office Fair Trading (OFT), into Dixons' pricing of personal computers.

Peter Mandelson has sent a letter to the OFT voicing concerns about Dixons' pricing policies following an attack by Craig Barrett, chief executive of Intel, the world's largest microchip manufacturer. He accused Dixons of eroding personal computer sales in the UK by charging high prices (See Box).

This follows damaging publicity about extended warranties - policies which ensure bought goods against breakdown. The OFT report two years ago found that retailers were abusing their power when selling warranties and they were ordered to give greater information at the point of sale about warranties.

But perhaps most significantly, Dixons, along with other electrical retailers, now faces formidable competition from the supermarkets. This week Somerfield announced that it is to sell low priced CDs and stereos in the run-up to Christmas. Earlier this year, Tesco and Asda started selling personal computers and supermarkets are already selling home electrical products at pile 'em high, sell 'em cheap prices.

This is a significant threat to Dixons and others in the electrical retailing business such as the Kingfisher-owned Comet. Dixons' and Comet's advertising is predominantly based on price. Consumers seeing goods in their local supermarket at prices much lower than the ones advertised by Dixons and Currys will question how attractive their prices really are.

'The problem is that after the extended warranty publicity, people don't really like Dixons. And I don't know if they trust them,' says one agency source.

Another source says: 'They offer goods at what seem like cheap prices but what you don't realise is that you need to get add-ons or pay for delivery and tuning of things like TV sets.'

Problems for Dixons are exacerbated by the fact that the supermarkets are now keener than ever to portray an image of value.

Charles Dunstone, managing director of the Carphone Warehouse says that Dixons and others are experiencing a good deal of short-term pain as a result of this.

'I think this (supermarkets selling electrical products) is a smoke screen. It's not critical to their (the supermarkets') business and I think it is in their interests to explore areas where they can give the customer the impression of value.'

A number of observers including Dunstone also question whether the 'rip-off' tag which has been associated with Dixons and other electrical retailers is entirely justified. He argues that much of the blame can be laid at the door of the manufacturers.

'Dixons is taking quite a lot of the blame for pricing issues, but it is manufacturers which try to supply at high prices,' he says. 'Dixons is doing things by the book, working directly with the manufacturers, while the supermarkets are buying on the grey market. The problem is that unlike the supermarkets, Dixons needs continuity of supply for a greater number of outlets, whereas the supermarkets can be more flexible and can buy speculatively.'

This is a view echoed by Clive Vaughan, research manager at retail consultants, Verdict.

'We have to look at the evidence. Even though Dixons is the market leader in the UK it is not making huge profits and it has lost lots of shops. If you look at the profit it makes on turnover, it does not appear to be making excessively high margins. '

The Dixons group which consists of Dixons, Currys, PC World and The Link made pounds 219m pre tax profit in the year 1997/8 on turnover of pounds 2.77bn, an eight per cent return.

But while these are significant figures reflecting what is undoubtedly a powerful player in the UK with just over 900 outlets across its different brands, compared to its most important supplier Sony, Dixons has relatively little power. This must come into play at the negotiating table.

Roy Maconochie, retail analyst at Henderson Crosthwaite, says: 'A UK player compared to a world multinational such as Sony is peanuts. Electrical retailers cannot exert buying power in the same way as say a

Sainsbury's or Tesco can.'

'We don't actually understand why the electrical retailing sector gets such a hiding from the Government. We do have some sympathy with Dixons,' says Verdict's Vaughan.

Vaughan argues that one of the main reasons goods are priced more cheaply in the US compared to the UK is because retailers have more power and are thus able to drive prices down.

He says that were supermarkets to get involved in selling electrical goods over the long term, they might well come up against the same problems as Dixons. That is, as UK focused retailers they would be hard pushed to negotiate on prices set by suppliers such as Sony.

Ironically, while Kalms is fronting a high profile campaign against the UK introduction of the euro, some observers think that Europe could provide the key to cheaper prices for retailers. If the UK-based chain were to expand across Europe and increases its bargaining power, this could drive prices down.

'As the euro comes in, the balance will change,' says Maconochie. 'Kingfisher for example now has a six per cent market share across Europe and owns the Darty chain in France.' As it expands, he argues, the going will get tougher for Dixons.

Dixons may have to re-examine its advertising strategy and move away from a purely price-led proposition across all its brands. It has already started to do this with its recent TV advertising campaign for its Currys chain. A spokeswoman for Dixons says: (c) 'With Currys we are looking to emphasise range rather than price and are now using the catchline 'The choice for you.'. We are very keen to re-emphasise value but choice and range is also important.'

Some argue that Dixons will always be able to take advantage of its high street dominance. They also point out that it stands to capitalise on the launch of digital and increasing electronic convergence.

One former cable TV marketing director says: 'If you are able to get distribution through Dixons, that gives you a retail presence on every high street, as well as joint press advertising. This is something that cable TV has never had and is one of the reasons for its poor performance.'

In reviewing its strategy, Dixons must be considering ways of strengthening its negotiating position and countering price-led competition by enhancing its service provision. To this end, expansion into Europe and brand-led rather than price-led ads may not be far off.

But even if Dixons is not found guilty of overcharging for the PCs it sells and no OFT investigation materialises, the damage has already been done to shoppers' perceptions of its prices.

HOW PC IS DIXONS?

Dixons' high street dominance has long been a bugbear for the computer industry, but one which now threatens the whole sector with an OFT enquiry.

Since Intel chief executive Craig Barrett raised concerns over Dixons role in maintaining the high price of PCs in the UK, the computer industry has remained reluctant to speak openly about the issue.

Yet the matter of PC pricing was raised last July with the then consumer affairs minister Nigel Griffiths by Fujitsu Computer. Zo Tompkins, public relations manager for Fujitsu says: 'We are very keen to see UK pricing come in line with European pricing.'

Industry insiders claim that the Dixons group has more than 50 per cent of high street sales. But a spokeswoman for Dixons says: 'On Dataquest figures we have a 14 per cent share of the high street market and a 7 per cent share of the PC market as a whole.' The average margin for the Dixons group on PC sales is less than ten per cent.

Dixons Group chief executive John Clare has written to Peter Mandelson, the Secretary of State for Trade and Industry, and to John Bridgeman, the director-general of Fair Trading, welcoming any OFT investigation.

He says that the role of component suppliers, such as Intel should be considered, as well as the impact of VAT on the purchase price of PCs.

A spokesman for the Dixons Group adds: 'The point is that components make up a huge part of the cost of a PC, if the component is expensive it will have an impact on the cost of a PC.'

Pete Day, principal consultant of Woking-based INTECO Corporation says: 'By the middle of the year the UK price of new PCs had fallen to a level where they were on a par with France, but prices in Germany still remain around 25 per cent lower.'

He adds: 'Overall specifications in the UK are higher, but not enough to justify the price difference compared to, say, Germany.'

Industry insiders point out that tax rates in Germany are only one to three per cent lower than the UK. But they also claim that German retailers operate on tight margins and have a tendency to sell low- priced unbranded home PC's.

Although Dixons dominates the high street, more consumers are also turning to the direct channel using the likes of mail-order company Time, which has its own retail showrooms, and Dell, which sells through the Internet.

Brian McBride, Dell's vice-president for the UK and Ireland, says: 'I think this is the most competitive market in Europe and there are plenty of ways consumers can buy PCs.'

Industry insiders claim Dixons' margins on its cheaper own-label ranges tend to be substantially less than those for the higher-priced branded computers such as Compaq and Packard Bell.

Paolo Puppoli, an analyst at IT research company Dataquest Europe says: 'I think that Dixons' reasons for coming out with cheaper models are partly to do with the influence of alternative channels and also to open up the market to new users.'

He believes that Dixons will also come under pressure from suppliers to reduce its margins on branded goods in order to stop any potential loss of their market share.

The industry claims that prices cannot be compared like-for-like with those on the continent because UK consumers demand that software and printers are bundled into the final price.

Dixons plays a part in setting high street prices, but the group is coming under increasing pressure from alternative channels to offer consumers cheaper products. With falling PC prices the OFT may find that by the time it completes its enquiries, the consumer already has benefited from a readjustment in market forces.

I'm still trying to work out the advantages of the latest idea in plastic cards (MW November 19).

As I understand, you had to queue to obtain cash from a cash point with a cash card, or had to queue to cash a cheque. You then queued at another machine to put the cash back in again and charge up a second card, which you could then use at a restricted number of outlets to obtain a limited range of goods or services.

When you reached the pay point (cash point?) at one of these outlets, you had to select the correct card from all the others, feed it in to another machine and hope it works first time, that it wouldn't need wiping clean, and hadn't been corrupted by other cards in the same wallet, your mobile phone or one of the magnetic security devices near the door of almost all shops now. (Are those things safe?)

If all went well, this machine emptied some of the credit off the card and you then had to return to the start, get more cash, reload the card and begin all over again. What happened if there was insufficient credit on the card for the intended transaction? To see how much credit is left on the card at any time required yet another machine, another queue, and another bother. And you wonder that the scheme was not a success!

Because of the proliferation of little plastic cards now required to conduct the simplest transaction (there are cards for cash, for credit, for points, for debit, for loyalty, for each store, petrol station, for this chain or that) I recently had to buy another wallet to hold them all.

It occurred to me that there must be a simpler system; a way of holding credit that can be used in payment for goods or services and that is accepted everywhere without the need for separate versions for different purposes and outlets. It could be made of paper so that it is lightweight and saves space, or of a variety of denominations to suit special purposes. Seeing how much you had would be quick and easy, and its absence would be an obvious way to work out when you had none left.

We could call it cash.
Dr Christopher Flower
Crawley
Sussex

What nonsense is this I hear being reported from the lips of Lord Saatchi? (Iain Murray, MW November 26).

Surely marketing is and will always remain a transactional-based function responsible for the designated tangible and intangible interactions between internal and external customers. Surely marketing is about 'selling' - the idea, the concept, the product, the service - creating that 'win-win-feelgood factor'.

If marketing is thus to be championed by the 'great untouched' then surely it remains up to the 'walkers' among us to steer marketing into the next millennium - unless of course Peter Mandelson is interested?
Jayne-Louise Watkins
West Lothian
Scotland

Roger Baird's article (MW November 26) demonstrates how out of touch observers are with the cable industry.

A lot of the criticisms he levels may have been true a few years ago, but it is a young, aggressive and fast-changing industry which has learned quickly. I wouldn't describe Cable & Wireless' profit of pounds 150m in the past year as 'poor performance'.

The fact that its year-on-year sales was increased in October in the face of the huge advertising expenditure by ONdigital and Sky suggests not only that our marketing is more effective, but that the product is competitive. Cable & Wireless' marketing, far from being a 'leaflet through your door', is a fully integrated multimedia campaign. Its marketing is so effective that it can maintain its spend and yet double its sales performance, taking on 147,000 new customers every year. It might not be a marketing blitz, but it is highly effective, responsive marketing which delivers sales at half the cost of its competitors'.

Digital might be sexy, but Cable & Wireless is offering a more personal choice of higher quality channels at a much better price than either of its digital competitors - and that's with its existing analogue product.

Ask yourself what choice you get from ONdigital, where you have to choose a block of either six or 12 channels. And of course neither Sky nor ONdigital offer free telephone line rental, so the Cable & Wireless dual product costs considerably less than either. From next year, when its digital product is launched, the channel line-up will be unbeatable, the choice of packages more individual and the price still substantially less.

So, while Cable & Wireless is plotting its digital assault, it is confident that the current product's strengths will carry it through until next year.

Cable & Wireless' digital will then be launched using the same targeted marketing which is so successful for the company now - and it won't need to be a blitz.
Fiona Gordon-Brown
Director of Responsive Marketing
Joshua
London
WC1

Customer relationship marketing or true one-to-one marketing is easier for a start-up, as Martha Rogers comments in 'Why intimacy is vital to customer relationships' (MW November 12). Her case is already proven by the continuing success of direct banks and insurers.

But I disagree with Alan Mitchell's observation that, apart from retailing giants and start-ups, implementation of CRM is pure hype. Over the past two decades, I've worked with a number of businesses in a range of sectors to implement data-driven CRM programmes which are increasingly seen as the backbone of an integrated approach to customer and prospect communications.

The good news is that you don't need to be a 'giant' or a start-up to make CRM work. There are now a select group of expert companies that focus

on both advising clients in developing their one-to-one requirements and delivering and managing their CRM solutions at all levels.

However, CRM consultancy and services are not going to change the fact that the one-to-one, customer-centric philosophy within client companies needs to be embraced at a higher level than the enthused sales and marketing departments - the corporate boardroom, for example.

Tesco is to be applauded for appearing to have done that and doubtless inspiring others to invest in the one-to-one future.

Geoff Downer

General Manager

Swetenhams Marketing Services

I read with interest your article called 'Reputations at Stake' (MW November 12).

Your caption under The Vegetarian Society's advertisement in the report 'The Vegetarian Society: Ethical stance can cause problems' was very interesting. I thought the problem was not so much to do with an ethical stance but the fact we believe the statements made were wrong. The ASA agreed on six out of seven counts!

Chris Lamb

Consumer Marketing Manager

Meat and Livestock Commission

Milton Keynes

David Reed comments that as financial services 'remain a considered purchase, rather than an impulse buy, this limits the extent of interaction which customers will have with the literature.' (Branching Out, MW November 26).

To promote a service, it is essential to grab consumers' attention in a 'captive' and convenient moment. An in-store TV campaign, with the television placed near the queue, achieves this aim. TV is an attractive medium and, if used for a limited time, can convey crucial information.

Staff need to be briefed about such campaigns. Training them to ask questions or to give more detailed information to potential clients within the bank or retail outlet would increase interaction with customers. It would present an opportunity to hear what the consumer wants, and thus would benefit consumer and retailer alike.

Jeremy Williams

Client Services Director

Aspen

Kensington

London

W14

London adman and part-time children's book author Geoffrey Sundquist hit the jackpot last Christmas.

His debut novel 'Father Christmas and the Missing Reindeer' was sold to ITV as an animated festive film complete with Only Fools & Horses star David Jason doing the voiceover.

Sundquist, who has also written a series of children's books about a magic family called The Giggles, wasn't laughing last week when he was ousted from his job as development director at integrated marketing group Osprey.

But there could still be cause for celebration in the Sundquist household this Yuletide. The day after finding out he had lost his job, Geoffrey learned his latest children's story - 'Father Christmas Has Lost His Address Book' - had been accepted as a children's Christmas TV special for next year.

Let's just hope Geoffrey finds a job and that Father Christmas finds his address book - or Geoffrey might end up helping to deliver the presents this year.

Clever poster advertising has always been the hallmark of the Silk Cut brand.

But one punter thought the creatives had gone too far when he spotted a poster showing a man's torso with a stitched purple slash wound and the words 'smoking causes heart disease'. Outraged, he immediately rang up the Advertising Standards Authority to complain.

But the ASA was able to put the concerned fellow's mind at ease. The

ad had been placed by the anti-tobacco lobbyist ASH (Action on Smoking & Health).

Had the conscientious member of the public read the poster - created by Rob DeCleyn and Simon Micheli through Leavold Pollard Rogan Advertising - in full, he would have seen the words 'Warning: Health Warnings don't work' and 'ASH.'

The marriage of industry reference bibles Brad and Alf resulted in a little production 'accident' which has left a whole host of ad agencies hopping mad.

December's edition of the newly merged tome included a section entitled 'regional agencies'. Fair enough, you might say, a helpful reference aid.

Not only does it ignore the fact that many agencies outside London don't actually want to be lumped together in an 'out in the sticks' ghetto, but horror of horrors, it erroneously included some London agencies in the list.

Claydon Heeley, Farrar Media, Hakuhodo, The McWilliams Partnership, Optimedia International and The Open Agency among others have been stripped of their capital credential.

Brad has admitted its mistake and has promised the matter will be rectified in time for the January edition.

But, agencies may be even less pleased with the criterion for entry in the yet-to-be-named replacement section - billings of less than pounds 5m.

Internet publishing start-up Direct Network Publishing has launched its online music magazine Music365 despite claims from rivals that music advertisers have still to fully commit to the Internet.

The electronic magazine is the third online title launched by the group. Rival music site NME.com attracts up to 5 million page impressions a month, while Miller Freeman's dotmusic (www.dotmusic. com) claims to attract 150,000 users a month.

According to Chris Sice, commercial manager at dotmusic, advertising for music-related sites remains relatively modest - although that could be about to change.

'We are getting the right calibre of advertiser with the likes of Levi's, but there's not as much from the music industry as you would expect,' he says. 'Music companies are just starting to put aside money for the Internet. Record companies will probably start to come onto the Net during 1999.'

Simon Morris, co-founder of DNP, agrees the conservative marketing strategies of music companies are still to be overcome.

'The music industry has been lazy about the way it markets acts and sells records, and tends to stick to a tried and tested formula. But there's a recession, and commercial pressure may encourage companies to see the Internet as a cost-effective marketing tool rather than a threat,' he says.

Morris expects to reveal the identity of an e-commerce partner on the site by the end of the month, and predicts that transactional revenues on Music365 may outstrip ad revenues within two years. 'There's more money to be made out of the transactional side through sales of music and tickets,' he says.

Over the past two months we've been deluged with advertising for digital TV - Sky or ONdigital.

But why do none of these ads include a Web address so that potential customers can find out more information, talk to the companies concerned or even buy the service?

It's a glaring omission, particularly for a consumer proposition that promises, at some stage in the future, to be interactive.

Take ONdigital. Not one advertisement that I've seen over the past month highlights its Web address. Customers would be entitled to think the company doesn't have a site. It does - www.ondigital.co.uk - but you wouldn't know it judging by the communications output.

Why is this? Perhaps someone forgot that the Web can deliver complex information to over 7 million UK consumers in a form they find convenient.

Perhaps they think that including a Web address, unlike a free-phone number, will confuse the consumer.

Anyway, this theory collapsed last weekend when I went into Dixons and picked up a leaflet for ONdigital which I thought would tell me more. It didn't, and neither did it point me to a Website which could.

When I finally located ONdigital's Website, it was barely worth the effort in the first place.

I expected to be able to quiz a TV guide as to what I could choose to watch on a typical night's digital viewing in the future.

Yet all I found on the site was a list of the channels and an invitation to phone for an information pack. Hardly 'interactive'. At least Sky Digital's offer is a lot more informative.

This disregard of the Web in the launch of new - and supposedly interactive - TV services is worrying.

Sometimes you get the impression that the TV companies consider the PC to be irrelevant as a medium.

Yet content is converging to a point where organisations will focus on developing digital assets that can be accessed through a wide variety of interfaces and devices. Those people who mask inaction under the mantra of 'TV will be the winner' risk emerging as losers as more enlightened competitors grasp the nettle of convergence.

CHBi Razorfish has won accounts with City fund manager Johnson Fry and PC accounting software company Sage Group. The new media agency expects to launch sites for both clients in early 1999.

Book publisher HarperCollins has launched a gift selector feature on its merchandising Website fireandwater (www.fireandwater.com). Customers can opt for premium rate gift-wrapping, personalised greeting cards and next-day delivery from the service. The facility, which was launched this week and will run through the Christmas period, allows users to choose from a range of books generated by the recipient's interest and relationship to the customer.

BT has launched a heavyweight 'Choose BT' online campaign, to complement its existing 'offline' ad campaign. It is aimed at encouraging former customers to return to BT from rival telecoms operators. The online media schedule, built around seven creative executions, includes a booking with Yahoo! to deliver 300,000 banner impressions selected by general placement and keyword searches.

British-focused Web search engine searchUK (www. searchUK.com) has added refinements to its service aimed at speeding up searches for relevant information on the site. A related word facility allows users to narrow their searches and improve the relevance of the results.

Volkswagen UK has launched a site to promote eventual sales of its revamped Beetle model which the company plans to have on sale in the UK in the second half of next year. The site (www.newbeetle.co.uk), commissioned through Carat Interactive and produced by Web designers Deep End, will act as a 'satellite' to VW's main Website (www.volkswagen.co.uk), and is designed 'to encourage an active following for the car before its arrival in the UK', according to the agency.

WAM Interactive is installing interactive touchscreen kiosks at Heathrow Airport. They will promote the electronic booking of travel-related goods among the airport's annual through-traffic of 58 million passengers. Avis and Thomas Cook are among advertisers already signed up to use the system.

Consumer advocacy groups in the US are warning that the dollars 4.2bn (pounds 2.6bn) takeover of Web browser software group Netscape by AOL could threaten to end open standards in Web publishing and another bout of browser wars.

US regional bookseller Books-A-Million has joined the online sales market with the launch of its own site (www.booksamillion.com), promising a policy of heavy discounting on high street stores to compete with existing players Amazon.com and Barnesandnoble.com.

Internet ad sales house DoubleClick has won the contract to sell advertising for Freeserve, the Dixons Group-backed venture now vying with AOL to be Britain's biggest Internet service provider.

DoubleClick will begin rolling out ad sales for Freeserve over the next few weeks.

The sales house aims to establish the site as one of the UK's top

single online advertising properties, which will be sold by a dedicated team directed by DoubleClick UK's managing director Andy Mitchell.

Mark Danby, general manager of Freeserve, predicts that paid-for ISPs will face increasing pressure from the launch of other free services in 1999.

According to Mitchell, Freeserve offers advertisers the opportunity to get in touch with a different type of Internet user: 'Forty-two per cent of Freeserve users are new to the Internet, 50 per cent are earning pounds 19,000 or less - meaning that Freeserve doesn't just offer access to high-earning households,' says Mitchell.

'Freeserve is expanding the market and the demographic user base. Its user base is a truer reflection of the consumer market,' he adds. 'That's great for attracting consumer brands, and I believe there will be pressure on sites to offer a broader demographic, so that companies such as Unilever and Procter & Gamble can get into this market.'

Both Danby and Mitchell accept that the strength of Freeserve's appeal in the online advertising market depends on whether it can maintain traffic on Freeserve. Improving the content of the site is a priority: 'We are expecting to have 20 channels by early next year, including travel, money, motoring, and education content,' says Danby.

'We hope to encourage people not to change their Freeserve default homepage. But as there are not really that many other UK-focused portal sites, we should be successful.'

BT's recent deal with the UK subsidiary of Excite promises to run on very different lines to business deals outside the Internet industry.

The dollars 10m (pounds 6.3m) deal, in which BT picked up half of Excite's UK business last week, appeared simple enough on the surface - a dominant UK consumer brand and a dominant global online brand together at last.

Both companies have much leverage to gain in promoting a range of interactive services for UK Internet users.

However, BT will continue to partner Excite's arch-rival Yahoo! in promoting its co-branded Yahoo! Click Internet access to UK consumers, and Excite will continue to co-operate with telecoms and Internet company UUnet in cross-promoting each other's services.

It will also continue to offer 'shareholder value' to Excite UK, according to Dafna Ciechnanover, European developer of marketing and business development for Excite.

The future of BT's Yell site, the company's first attempt at establishing a UK-focused directory site, is unclear, says Ciechnanover.

But Excite does expect to be featured as top search engine and Web directory resource in BT's existing basket of Internet access services. Excite, meanwhile, will continue to feature Scoot over its rival Yell as the preferred online directory to UK businesses.

'It's characteristic of the sector to see players competing in some areas while co-operating in others,' says Ciechnanover.

'Tactical' deals with Excite's rivals are allowed under the partnership deal, although 'strategic' deals are not allowed, she adds.

Radio ad campaigns are known to be tricky to evaluate. Indeed, some people say that one of the best ways for local advertisers to measure the success of their radio campaigns is to look at their cashflow.

If there is no noticeable difference in the tills, the radio campaign should be dropped or changed.

While local advertisers find radio campaigns tough to evaluate, the difficulties increase at national level. This is partly because radio has historically played only a very minor part in the marketing mix, although this seems to be changing - radio's share of the cake has more than doubled in the past five years, growing from two per cent to five per cent of revenue.

But the bigger problem, radio's supporters argue, is that the noise from the other 95 per cent of advertising tends to get in the way. Jonathan Chapman, a director of Clark Chapman Research, observes: 'Every researcher knows that radio advertising awareness has unbelievably low recall figures. This is possibly because the research method doesn't take account of the way people consume radio.'

Radio, like posters, is almost subliminal in the way it operates. Most listeners are doing something else - driving, eating, their daily chores - with their attention levels increasing and decreasing during the flow of music, news, ads and weather.

In addition, radio isn't perceived as the natural home of brand advertising - as researchers usually discover, when consumers are asked about brand advertising, they always think of television before radio.

In an attempt to establish the best way of measuring people's exposure to radio advertising and the effect it might have, the Radio Advertising Bureau recently commissioned Clark Chapman Research to carry out a live test of different methodologies.

The company surveyed consumer recall and response to six different campaigns which were running on Capital Radio. The test brands involved were Feminax, TV Licensing, Prudential, P&O Stena, Silentnight Beds and Channel 5, but all the figures are averaged across the six.

To offset the possible effect of misattribution, the researchers used a split sample of listeners and non-listeners.

Spontaneous awareness scores showed that, on average, six per cent of the Capital listeners remembered that the test brand had advertised on radio. The level of noise in the numbers here is clear, from the fact that four per cent of non-listeners answered the same way.

Prompting with test brand names on a showcard helped this figure rise to 13 per cent, and it rose again to 19 per cent when listeners were prompted with the medium as well, for example: 'Which, if any, of these have you heard advertised on radio recently?'

Chapman says: 'This is about as far as many surveys go and, to be fair, 19 per cent is a reasonable level to see significant shifts.' But the researchers took their survey two stages further.

The interviewers read out a description of the ad, for example, 'This ad is in the form of a lighthearted drama where a couple are being told at the check-in desk at the airport that they simply cannot bring their bed with them into the aeroplane', and asked the respondents whether they had heard it.

Perhaps not surprisingly, scores varied widely on this method, leading to the conclusion that some ads are easier to describe than others.

The fourth stage was commercial recognition - the researchers literally played the advertisements to the respondents and asked whether they had heard them. As the chart below shows, this revealed that, on average, 63 per cent of the listeners could confirm they had heard the campaign - this figure excludes an additional nine per cent who said 'maybe'.

So different research methods prompted 63 per cent recognition compared with six per cent - a huge leap.

Clearly, memories of radio advertising are very sensitive to prompting. So what does this mean for the way radio advertising research is conducted?

Chapman says: 'We don't really have a right and wrong method here - we have different results when we use different techniques.'

If marketers want to know how likely listeners are to think their brands are radio advertisers, then spontaneous awareness scores will tell them this. The Carphone Warehouse tends to score well on this - the brand has achieved an explicit association with the medium.

Describing radio campaigns to listeners seems to be an unreliable method - and it is actually measuring how easy it is to describe an ad, rather than whether anyone has heard it, so it is not particularly useful.

Commercial recognition is clearly the most efficient method in terms of finding out whether people have heard a particular campaign. This is valuable, because one can look at the correlation between this and brand knowledge or attitudes.

Meanwhile, it seems that the method normally used - the prompting by brand and medium - may make sense in terms of economics (it can be added to a TV tracking study), but will inevitably under-report true levels of radio advertising memories. On this basis it should certainly be questioned.

The Radio Advertising Bureau will post a fuller summary of this study at its Website RAB online which is at www.rab.co.uk

The millennium may seem like an excuse for the party to end all parties, but it could also be an excellent opportunity to market a destination or a venue. It is the chance for a new beginning, an opportunity to put right what was wrong, and build on what is right. So, while exhibitions and expositions play an important role in displaying the individuality of countries, if well-planned, they could also provide a legacy in the form of greater confidence, jobs, improved facilities, and new skills and opportunities for thousands of people.

Being on the meridian from which standard times worldwide are calculated, Britain generally and London in particular, has the greatest incentive to respond to the year 2000.

Or does it? New Zealanders are also claiming to be the first into the millennium. According to Denis O'Reilly, director of the New Zealand Millennium Office: 'New Zealand is first to the future. We contest the notion that time starts at Greenwich. Britain is the custodian of time, but New Zealand is 12 hours ahead of Britain, so the millennium starts here.'

Last month, the New Zealand Tourism Board committed almost pounds 500,000 to a marketing campaign aimed at the UK, to be launched in the autumn. The emphasis will be on destination marketing, but events happening in the Pacific rim form an integral part of the strategy. They include The Americas Cup, The Millennium and the Sydney Olympics, and are being used to showcase New Zealand worldwide.

The strapline 'Discover New Zealand' will be disseminated through trade and consumer shows. Marketing networks will be established, comprising like-minded tourism operators in a number of areas, including conferences.

Unlike Groucho Marx, who said he would not join any club that would accept him as a member, most people will sign up for membership of almost anything. Recognising this, Club Odyssey's End was established as part of New Zealand's marketing campaign to attract a maximum number of business and leisure visitors to the country in general and Gisborne in particular. Membership includes an invitation to the New Year celebrations of the Odyssey's End/Gisborne 2000 festival starting on December 31 1999. And after 24 hours of partying, Gisborne gets down to displaying its wares with a nine-month trade fair.

More permanent will be the planned waterfront tourism complex on Gisborne's inner harbour, with an outdoor amphitheatre, visitor information and convention centre. And, on the other side of the Turanganui river, a 100-room resort hotel and conference centre is being built.

A bit further East, Sydney's activity hits the Richter scale at an even higher level, with preparations for the Olympics in September 1999. PriceWaterhouseCooper is undertaking a study of the city and the possibility of exploiting the Olympics to generate a legacy of (c) improved infrastructure and a strong marketing message. Traditionally, this has been hard to do, the most extreme example being the 1976 Olympics in Montreal, after which the city went bust. The research will be used as the basis for developing a strategy for Sydney until 2020.

But PriceWaterhouseCooper's investigations, undertaken on behalf of the Committee for Sydney, have already highlighted the fact that Sydney's popular landmarks - the harbour, opera house and bridge - dwarf its image as a business centre.

Sean Duggan, PriceWaterhouse-Cooper spokesman, says: 'Sydney has a positive image overseas as a tourist destination, but we work here too, and many large companies have their headquarters in the city.'

Established to take advantage of the additional exposure associated with the Sydney 2000 Olympic Games, Investment 2000 is a joint venture between the public and private sector to attract foreign investment into Australia.

'The majority of incremental investment into Australia comes from existing investors, so we have started by working with the multinational companies already here,' says Investment 2000 chief executive Andrew Gilkes.

'Investment capital is much more heavily weighted in Europe and North America, but we expect this to change as investors start to look towards the Asia-Pacific region, which produces roughly 30 per cent of the world's

GDP.'

One of the main motivations behind Investment 2000's marketing of Australia as a business location is the increased regionalisation of corporate operations. Companies are changing operations, so that the sharp end of the business, such as sales and marketing, are provided (c) by local managers in several countries, and other functions - back office, IT and logistics - are located in one place in that timezone.

Changes such as increasing consumerism and demand for services and a booming infrastructure for the provision of commodities and production of manufactured goods are also driving the region's growth.

According to Gilkes: 'Australia's role in these changes is pivotal. It has an abundant supply of experienced management, professional and technical staff, plus a cutting edge telecommunications and IT infrastructure. There is a sophisticated consumer market, which can be tapped to develop those that are emerging in other parts of the region.'

To exploit these opportunities, Investment 2000 has made presentations to selected companies in Europe and Asia, with North America to follow. The intention is to attract up to 200 corporate investors.

With clever planning, using time differences and the international dateline, and by chartering Concorde, it is possible to celebrate the millennium three times. British Airways has seven supersonic aircraft in its fleet, but despite a flood of telephone enquiries, the airline is not actively marketing them yet. One drawback is the dreaded millennium bug. The national carrier has dedicated pounds 100m to deal with the problem, and is confident of success, but unless air traffic controls worldwide are bug-free, no airline will be able to land at an 'infected' airport.

London's plans for the millennium are well-documented and a number of glitches associated with two of the biggest projects, the Dome and the Jubilee Line, have created problems. But as Robert Gordon Clark, deputy chief executive of London First, points out: 'The extension of the Jubilee Line has made it strategically very important. It links Wembley to Stratford, where the Channel Tunnel Rail link will arrive, taking in Westminster, Waterloo and running along the South Bank.'

And part of the marketing plan is the co-funding by the LTB and London First of a marketing post to target business visitors and inward investors. 'We want someone who is innovative, creative, a deal-doer,' says Gordon Clark. 'We cannot change the face of London to meet the market need. We can only influence the improvements, not the product.'

One of those improvements will be to provide better quality information on the capital before and on arrival. Unfortunately, one of the major initiatives to restore the Thames as the highway of London has been scuppered after the company promoting the scheme, White Horse Fast Ferries, failed to raise sufficient funds on the stock market.

However, Gordon Clark also feels an international exhibition centre would play a vital part in the marketing mix: 'One of the city's greatest weaknesses is the lack of a world class international convention centre capable of holding 5,000 people,' he says. 'That business and the associated additional spend goes elsewhere and the economic impact is significant.'

All this activity makes it look rather quiet in Europe and elsewhere. In fact, there is plenty going on, particularly cultural programmes across Continental Europe. In Paris, 2,000 multicoloured fish will swim in the Seine and the Eiffel Tower will lay a vast egg, accompanied by the sound of 2,000 drums from five continents, an idea echoed by African drumming from Cairo to the Cape, culminating in a 24-hour drumbeat. Hanover is running Expo 2000; and in Spain, Santiago de Compostela will run special programmes with other activities across the country.

There will be a variety of cultural activities in Italy, with those in Rome eclipsed by religious pilgrimages to celebrate Christ's 2000th birthday. But the Christian aspect of the year 2000 means the Muslim world will not be marking it.

Most of this activity across Europe, although promoted in the usual way through local branches of tourism associations, will not benefit from any special drive.

But Greece's advertising campaign for the millennium puts all of this

activity into perspective: 'Greece: 2000 AD or 2000 BC? The authentic choice.'

Small and medium-sized conferences and events are increasingly being organised in-house, often with little or no professional input. Invariably the job falls to the managing director's PA. But the staff presented with the task of organising their company conference, over and above their normal jobs, are not always able to devote the time and energy necessary to ensure the event maximises its potential and achieves its objectives.

Determining when, and if, external assistance is required is not always easy and identifying who to approach can be even more difficult. Should you spend hours identifying a suitable location and venue? Can you use your own in-house equipment? Do you really need a bespoke stage set or will a cheaper option serve you just as well? Do you need a set at all? Is your screen large enough for your audience? Can Powerpoint alone produce the desired presentation effects or should you be looking to a Mac-based multimedia package? Do you need to outsource certain aspects and, most importantly, do you have the budget? The in-house versus outsourcing debate is just the tip of the iceberg and the beginning of a technological revolution that's affecting supplier and user alike. While the so-called experts discuss operational issues, important communication opportunities get overlooked.

Why are we concerned? Haven't we in the communication business previously welcomed technological advances? Haven't these developments resulted in cheaper hardware and significant price reductions? Event organisation is not rocket science and at an organisational level can, in many instances, be managed by competent administrators. It is when you enter into the realms of event production the debate begins to heat up. We are bombarded by slick productions and we all expect that standard for our own conferences and events. But what can the budding enthusiast realistically expect to achieve with in-house expertise? And, if external support is needed who do you approach and at what stage?

There is no simple answer - it depends on what you are looking to achieve. A communications consultant can assist with marketing, (c) branding and event promotion. Trained producers can incorporate multimedia, speaker support and video to provide an integrated presentation of broadcast quality.

An experienced production manager will manage and resource all the technical aspects of the job unobtrusively and effectively.

However, smaller events do not always warrant such levels of expertise. A small production event using the client's in-house equipment or gear from the local audio visual company with Powerpoint presentations, fades and a good percentage of Clip Art may be just what's required. Powerpoint presentations can be extremely effective but there are still production issues that need to be considered and, more importantly, wider communication opportunities that need to be addressed.

There is no doubt conferences and events do benefit from the input of a professional team, both in terms of the pre-event creative planning and technical resourcing as well as the less obvious benefits such as promotional and logistical support.

Often events which are designed, produced and organised solely by the 'host' company without the benefit of external stimulation suffer due to a basic lack of knowledge. Wider opportunities get overlooked as the management teams become bogged down in operational issues they are ill-equipped to resolve. Technical equipment can prove inadequate for the job and speakers can miss important communication opportunities.

A professional team brings knowledge, experience and contacts to event communication knowledge, experience and contacts. It is our knowledge of the industry and our skill base in terms of event communications, technical production and logistical resourcing that gives us credibility. What we need to do is to share our expertise with our customers and evolve new ways of working together, recognising that our customers' increased technical knowledge and expertise presents new communication challenges that often get overlooked.

There is sadly a certain amount of snobbery within the conference and event industry that prevents us from facing up to reality. The easy

availability of technical equipment and computer technology has revolutionised our industry and caused many of us to rethink our strategy and review our methods of approach.

To be truly effective, we need to work with our customers at the conceptual stage to develop a modus operandum which not only encompasses the technical, creative and logistical aspects of event management at a practical level, but which also looks at the wider opportunities.

The educated user is a new concept for many of us in the business and we need to approach our new enlightened, computer literate customer with the degree of respect he or she commands.

And we also need to remember that technology alone can't make an inexperienced communicator communicate. Technology alone is insufficient. But by working together, customers and professionals can get the best of both worlds, at a price both can afford. v

The scope of information services has broadened so much that established directories have been forced to add value so they can hold on to their position in the market. At the same time, public information services are moving into areas originally dominated by business-to-business directories. The result, in both cases, is a renewed focus on the demands of both advertisers and consumers.

Miranda Cleverdon is head of corporate communications for Free-pages Group. Its three-year-old Scoot interactive service has been giving public directories a run for their money.

'Any vaguely directory-type service would be classed as one of our competitors,' says Cleverdon. 'That includes those which offer business-to-business information or entertainment information. This is not the case with published directories.'

Scoot intends to be 'the interactive information service connecting buyers with sellers through mult-iple distribution channels'.

Does this mean that it will encroach on existing business-to- business services?

'It does insofar as we have a classified business directory service,' says Cleverdon. 'We're offering business-to-business information over the telephone, mobile phone, CD-Rom and the Internet.'

Certainly Scoot provides stiff competition for major public directories' interactive sites.

'We split the country into 985 sales hot spots. We make the service very localised so that when you phone you can be pretty sure that you're getting a local service if that's what you require.

'Our proprietary search engine starts its search from a central point and works outwards. This is more useful for the consumer - if you live in Birmingham and your nearest dealer is in Bristol, the system would be able to give you that information because it doesn't search by restrictive postcode matrices,' says Cleverdon.

Search patterns online are different to those on the telephone. 'Our research has shown that people who use the telephone are usually in a hurry, and they don't have time to browse through a directory. They will, statistically, stay on the phone for 2.1 pieces of information. They know what they want and expect us to do all the searching on their behalf.'

This includes items such as cinema listings on the telephone and Web. A Vodafone link which offers free information (including text messages to users' phones) to account holders, is another competitive advantage.

There is also a home shopping facility. Freepages recently reached a partnership agreement with US shopping network Cendant.

'We're actually moving our service well beyond the restrictive parameters of the directory market,' says Cleverdon.

Advertising has held steady in directories over the past few years. According to statistics in the 1998 Directory Publishers Association membership directory, directories are ranked sixth among all advertising media in the UK and attracted nearly six per cent of all advertising revenue in 1996. More money was spent advertising in directories than consumer magazines, outdoor and transport, radio or cinema.

Directories accounted for about ten per cent of press advertising spend during that year. Since 1992, more has been spent on advertising in directories than consumer magazines.

Paul Fry, strategic development director for Yellow Pages, says that directories have always had to withstand competition from various media.

'There have always been an enormous number of routes to our marketplace. Directories are not the only way that companies get to their customers. We compete for attention with local newspapers, local radio and specialist magazines.

'They're all in the same environment, trying to get sales leads to advertisers. The fact that there are new directories in the market hasn't made it more competitive than it was. The role of directories is to put buyers in touch with sellers, and that's a function fulfilled by many other media. We see these new services simply as additional levels of competition,' says Fry.

Yellow Pages' introduction of Talking Pages and the Yell Internet service are simply extensions of this, according to Fry.

'Although they're very different delivery mechanisms from our printed directory, the same sort of value strategy underpins our approach to them,' he says.

Thomson Directories is concentrating on extending the value added for advertisers by increasing the accuracy of localised targeting.

Kendall Gordon, senior marketing manager for Thomson, says: 'We have 164 directories, covering more than 80 per cent of UK homes and businesses. With printed directories, we have tried to provide differentiation in a couple of key areas. One is the more localised scope of the product than other products on the market. The majority of goods and services that people would source are within their local community, within ten to 15 miles of where they live or work.'

Coverage of smaller areas allows for a more portable directory. 'Firstly, it's physically easier to handle than directories that cover a much bigger area. Secondly, we've put other features in over the years. We relaunched our service at the beginning of last year and we've got a format size which is smaller than A4 for the majority of our directories and we have about 17 A5 directories,' says Gordon.

One of Thomson's variations on the classified theme, launched in 1991, is to have an A-Z of businesses at the front of the directory. This means that searchers can circumvent the classified section if they already have a business name. In contrast, the Thomson Internet version is all 164 editions rolled into one.

'Effectively, the Internet site is doing both the A-Z and the classified job. Like its print counterpart, it is free to users.'

Thomson takes on specialist bus-iness-to-business publishers with its CD-Rom, which users pay for. The company recently launched an upgraded version of the CD-Rom called Business Search Professional.

'In addition to the address and telephone number information, you've got a list of employees and a fax number. You can search by company name, location and postcode. People can export data direct to their own database or use it as mailing labels,' explains Gordon.

When it comes to increasing competition in the market, Gordon does not believe that one particular directory publishing medium is better than another.

'I think there's room for all of them. We certainly don't believe there's any downturn in the growth of the advertising revenue for print. If you look at our own performance, over the past few years we've added over ten per cent of revenue every year and continue to grow at that sort of level in print media. So I don't think telephonic, CD-Rom or electronic services are putting a brake on that.'

Rosemary Pettit, secretary of the Directory Publishers Association, does not believe competition in the industry is a threat to the traditional directory producers either: 'Directory publishers produce their own electronic versions, so the extra revenue stays within the same company.

'You could have one directory in print, the same directory available online in some form, and also a CD-Rom. Online directories are a significant part of business, but have not overtaken or replaced print publishing,' she says.

The threat from new media has not altered the fact that the DPA awards earlier this year featured an overwhelming number of print entrants.

'The print directory section is increasing, while the Internet section is only increasing slightly and CD-Rom is pegging level. Year-on- year, we have more print directories entered into the awards.'

One of the DPA finalists was the Profile Group (UK) which produces various media guides. Managing director Robert Barclay says the business sector has not taken to CD-Rom directories, and his company does not use this format.

'We did do the Foresight directory in a disk format, but we found that it didn't really give people the opportunity to update it often enough. We switched to online services and we find it gives people greater flexibility because we update them all on a daily basis,' says Barclay.

He points out that Internet services are still heavily complemented by their print versions.

'A fair proportion of our clients don't have Internet access on their desks even though there may be access somewhere in the office. So we find that a lot of people like having a hard copy too.'

The Profile Group plans to make its products more competitive with online services that allow for one-off searches. 'Instead of having to buy the whole product you can just check for one tiny piece of information. At the moment we're registered with the top seven search engines, but we're aiming to get a much bigger presence.'

Yellow Pages' Fry does not believe that the proliferation of new media channels and routes to market is cause for alarm.

'Our strategy is always to try to deliver the best value to our advertisers. Advertisers measure us on value for money, by how many sales leads we deliver to them and how many of those leads they convert into actual sales. Our strategy is to keep on delivering the maximum number of sales leads with a very high conversion ratio.'

To walk down a street in England, or visit a supermarket, or indeed go anywhere where the public are at large, is to encounter one of the great mysteries of our island race, namely however did we become an advanced economy? The inhabitants are so slow.

Young or old, fat or thin, it makes no difference. All amble in a narcoleptic trance. Aimless, stupefied, oblivious to all around them, they have lead in their boots. There are exceptions. Occasionally you can spot a bright-eyed nimble citizen darting this way and that, seeking a chink through which to pass the shuffling legions of the somnambulistic.

How is it that such vast numbers are rendered so lifeless, so torpid? Several possibilities suggest themselves. Exposure to television is known to sap the senses and drain vitality.

Labour- saving devices have been developed to the point where the energy conserved is infinitesimal; the automatic car key, for example, spares its user the half-turn of a wrist; even now, the Japanese are said to be working on a bottom-wiping machine. True, some members of an older generation, disturbed by their own lassitude, have taken to cycling, but the combined forces of their foolhardiness and the density of motorised traffic makes for a life expectancy that a mayfly might envy.

The answer to the riddle of mass somnolence might have lain undiscovered for years to come, particularly as so few have the energy required to pursue such quests.

However, thanks to the boon of market research - an industry whose task is made easier in an age when targeted respondents have lost the ability to run away - the mystery is unlocked.

A study of 1,000 people for the British Heart Foundation and Kwik Save shows that only ten per cent of men and four per cent of women regularly eat a fry-up breakfast. Among 25- to 34-year-olds of both sexes, almost half skip breakfast altogether. So there you have it - no fry-up, no energy.

The Great British Breakfast is among our proudest gifts to the civilised world. No meal yet devised can beat bacon, eggs, black pudding, and grilled tomatoes (mushrooms optional, likewise baked beans), lightly sprinkled with Lea & Perrins Worcestershire sauce. It sets you up for the day and is secretly adored by millions. Secretly because they've been made to feel guilty by almost two decades of carping, whining and finger-wagging by such as the BMA, the Health Education Authority and the British Heart

Foundation.

The traditional British breakfast has become an occasional naughty pleasure, like knocking a geriatric racing cyclist into a ditch. Anyone who has been in a hotel dining room at breakfast time, or travelled early morning in a railway buffet car, will have witnessed the enthusiasm with which bacon, eggs and sausages are greedily gobbled up. Proof that the mere prospect of a fried breakfast quickens the mind and shakes lethargy from the limbs.

Oh, what we lost when we forsook a breakfast that sizzled for one that looked like the scrapings from a barn floor. Bacon and eggs are what gave this country its vigour and stirred its blood. Can you imagine Isambard Kingdom Brunel setting off to knock up an iron bridge on an empty stomach? Do you suppose that Wellington rode forth to whack seven shades out of the little Frenchman with nothing inside him but a coffee and a croissant? Take away their bacon and eggs and men of action have no action.

And so it is with the languid masses who, having set off from A, are so listless and enervated they have long forgotten in which direction B lies and, worse, ceased to care.

If only they knew what the pig and the hen could do for them. Were the fry-up to be restored to the breakfast tables of the land, the streets would bear witness to such skipping and prancing as was last seen in the days when the populace was, by and large, flea-ridden.

That is why Professor Stephen Gray of Nottingham Trent University has missed the point. His is the enviable task of measuring women's bottoms for a living. (Does he, one wonders, give a little shrug down at the pub, and say with a sly wink, 'Somebody's got to do it'?)

At the last count he had spent three and a half years surveying the backsides of some 8,000 women. So no one can accuse him of shirking or cutting corners.

Pausing briefly from his labours to announce a tentative conclusion - for time and tide wait for no man and there remain many millions of female fundaments as yet ungauged - he says:'Today's bottoms are broader and saggier than they have ever been.' Has overwork turned him sour?

His explanation is that today's women are eating too much junk food laden with fats, which goes straight to their gluteal regions. Nonsense. They are not eating a cooked breakfast and hence are slothful. Were they to revert to the diet of their grandmothers and polish off a couple of rashers and an egg at the start of the day, the extra energy would burn off body fats, tone the muscles, bring colour to the cheeks (facial), and lend a whole new urgency to the High Street. Come that glorious day, and Professor Gray will have to chase his quarry.

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e-DMEC Announced Today the Official Launching of Its First E-commerce Server
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NEW YORK, Jul 14, 1999 (BUSINESS WIRE via COMTEX) - --Combined EBITA Growth of 74%--

--Time Inc., Turner Cable Networks, Filmed Entertainment, HBO and Time Warner Cable All Post Record Second Quarters--

--Net Income Improves to $593 Million--

--Earnings Per Share Improve to $.46--

Time Warner Inc. (Time Warner, NYSE: TWX) and Time Warner Entertainment Company, L.P. (TWE), reported record combined operating income before amortization of intangible assets (EBITA) of $2.017 billion, up 74%, on revenues of $6.634 billion for the second quarter of 1999. This compares to EBITA of $1.160 billion on revenues of $6.525 billion for the same period in 1998. Revenues grew 4% and EBITA grew 15% when normalized principally for the effects of certain cable-related transactions in 1999 and 1998. In the quarter, Time Inc., Turner Cable Networks, Filmed Entertainment, HBO and TimeWarner Cable all posted records. Below are EBITA results for the second quarter and six months (in millions):

	SECOND QUARTER		SIX MONTHS	
	1999	1998	1999	1998
TIME WARNER				
Publishing	$ 196	$ 176	$ 290	$ 261
Music	101	96	203	189
Cable Networks--TBS	235	198	419	351
Filmed Entertainment--TBS	71	38	100	23
Cable (1)	81	74	147	148
Intersegment Elimination	2	(1)	12	(20)
Time Warner EBITA	$ 686	$ 581	$ 1,171	$ 952
ENTERTAINMENT GROUP				
Filmed Entertainment --Warner Bros. (2)	132	122	478	241
Broadcasting--The WB Network	(30)	(23)	(71)	(61)
Cable Networks--HBO	131	113	256	222
Cable (1)	1,099	374	1,436	681
Entertainment Group EBITA	$ 1,332	$ 586	$ 2,099	$ 1,083
Intercompany Elimination	(1)	(7)	1	(23)
Combined EBITA	$ 2,017	$ 1,160	$ 3,271	$ 2,012

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(1) Second-quarter combined results include net pretax gains of $771 million in 1999 and $70 million in 1998 related to the sale or exchange of various cable television systems and investments. Similarly, six-month combined results include net pretax gains of $771 million in 1999 and $84 million in 1998.

(2) 1999 six-month results include a net pretax gain of approximately $215 million recognized in the first quarter in connection with the early termination and settlement of a long-term video distribution agreement.

For the first six months of 1999, Time Warner and TWE reported record combined EBITA of $3.271 billion, up 63%, on revenues of $12.834 billion versus $2.012 billion of EBITA and revenues of $12.574 billion for the same period a year ago. Revenues grew 5% and EBITA grew 19% for the six-month period when normalized principally for the effects of certain significant transactions in 1999 and 1998. Time Inc., Turner Cable Networks, Filmed Entertainment, HBO and Time Warner Cable all posted records for the six-month period as well.

Commenting on the company's performance, Chairman and CEO Gerald M. Levin said, "Fueled by strong results from all of our businesses in the second quarter, our performance during the first half of 1999 keeps us on track for another record year. Critically important to our company's growth is the progress we are making with our digital strategy. Going forward, the mix of our businesses makes us extremely well positioned to take advantage of the changes digital technology is bringing to the media marketplace."

Separately, Time Warner reported second-quarter EBITA for its wholly owned divisions of $686 million on revenues of $3.574 billion, compared to $581 million of EBITA on revenues of $3.672 billion in the second quarter of 1998. For the first half of 1999, Time Warner reported EBITA of $1.171 billion on revenues of $6.840 billion, versus $952 million of EBITA on revenues of $6.809 billion in the first half of 1998. Time Warner also reported $793 million of pretax income from its equity in the Entertainment Group in the second quarter, compared to $166 million for the same period in 1998. For the first half of 1999, Time Warner reported $1.135 billion of pretax income fromits equity in the Entertainment Group, compared to $273 million in the year-earlier period.

The comparability of Time Warner and the Entertainment Group's pretax income is affected by certain significant and nonrecurring net pretax gains recognized in each period. These items include a gain in 1999 from the early termination of a long-term video distribution agreement, net gains in 1999 and 1998 relating to the sale or exchange of cable television systems and investments, and a gain in 1999 relating to the initial public offering of a 20% interest in Time Warner Telecom. For the second quarter, these nonrecurring gains amounted to $886 million in 1999, compared to $70 million in 1998. For the six months, these nonrecurring gains amounted to $1.1 billion in 1999, compared to $84 million in 1998.

For the second quarter, Time Warner reported net income of $593 million in 1999, compared to net income of $101 million in 1998. After preferred dividend requirements, Time Warner reported second-quarter basic net income per common share of $.46 in 1999, compared to $.02 per common share in 1998. These per common share results include the effects of the nonrecurring gains in each year referred to above. Excluding the aggregate effect of those items, basic income per common share was $.12 in 1999, compared to a loss of $.01 per common share in 1998.

For the first half of the year, Time Warner reported net income of $731 million in 1999, compared to net income of $39 million in 1998. After preferred dividend requirements, Time Warner reported basic net income per common share of $.56 in the first half of 1999, compared to a net loss of $.10 per common share in 1998. Similarly, excluding the aggregate effect of the nonrecurring gains in each year referred to above, basic net income per common share was $.12 in 1999, compared to a net loss of $.13 per common share in 1998.

TIME WARNER

PUBLISHING

Second-quarter EBITA for Time Inc., the company's publishing division, was a record $196 million, up 11%, compared to $176 million for the year-earlier period. For the first half of 1999, EBITA was up 11%, to a record $290 million from $261 million in the same period a year ago. Contributing to the quarter's results were strong double-digit advertising revenue improvements with significant gains at In Style, Sports Illustrated, Teen People, Money and Entertainment Weekly. The results also benefited from best-selling book releases at Time Warner Trade Publishing, including White Oleander by JanetFitch, published by Little, Brown, and Live Now, Age Later by Isadore Rosenfeld, M.D., published by Warner Books. These gains were somewhat offset by lower results at Book-of-the-Month Club and the partially owned American Family Enterprises. Effective with the August issue, Teen People will raise its rate base to 1.3 million, a 160% increase from the magazine's initial 500,000 guarantee.

MUSIC

Warner Music Group posted second-quarter EBITA of $101 million, up 5%, compared to $96 million in the second quarter of 1998. For the first six months, EBITA was $203 million, up 7%, compared to $189 million a year ago. Contributing to the EBITA growth in the quarter were ongoing cost reductions as well as improved margins. Top worldwide sellers for this quarter included Cher, Tim McGraw, Kid Rock, The Corrs, the Austin Powers: The Spy Who Shagged Me soundtrack, Tom Petty, The Matrix soundtrack, Missy Elliott, Red Hot Chili Peppers, Sugar Ray, Madonna, Busta Rhymes, Silk and Catatonia.

CABLE NETWORKS--TBS

Second-quarter EBITA for the Cable Networks--TBS division was an all time record $235 million, up 19%, versus $198 million a year earlier. Six-month EBITA for the Cable Networks--TBS division was a record $419 million, up 19%, versus $351 million a year earlier. Both subscription and advertising revenues posted double-digit increases during the quarter. For the fourth consecutive quarter, TBS Superstation led basic cable in the total-day delivery of adults 18-49 and 25-54, while TNT ranked number one in basic cable in the prime time delivery of those viewers. Cartoon Network set performance records in both prime time and total day in the delivery of households, kids 2-11 and kids 6-11. CNN/U.S.'s average total-day ratings increased 25% in the quarter and CNN Headline News saw a 25% increase in total-day household delivery.

FILMED ENTERTAINMENT--TBS

Second-quarter EBITA for the Filmed Entertainment--TBS division was a record $71 million, up 87%, versus $38 million for the year-earlier period. Six-month EBITA for the Filmed Entertainment--TBS division was a record $100 million versus $23 million for the same period in 1998. EBITA growth in the second quarter benefited from improved theatrical results led by the box office success of New Line's Austin Powers: The Spy Who Shagged Me ($184 million at the U.S. box office to date)

compared to losses in the prior-year period related to feature films at Castle Rock.

ENTERTAINMENT GROUP

FILMED ENTERTAINMENT--WARNER BROS.

Second-quarter EBITA from Warner Bros. was a record $132 million, up 8%, versus $122 million for the comparable 1998 period. Six-month EBITA was a record $478 million, versus $241 million for the year-earlier period. EBITA for the second quarter benefited from improvements in revenue from worldwide theatrical and television distribution, offset in part by lower results from consumer products operations. Improved theatrical results are attributable to the significant success of The Matrix, which has generated worldwide box office revenue of $307 million to date. The year-to-date 1999 results include a net gain of approximately $215 million in connection with the early termination and settlement of a long-term distribution agreement for MGM/UA home videoproduct.

BROADCAST--THE WB NETWORK

The WB Network's loss was $30 million in the quarter, compared to a loss of $23 million a year ago. For the first six months of 1999, the loss was $71 million, compared to a loss of $61 million for the same period a year ago. The second-quarter results reflect higher start-up costs associated with the WB Network 100+ Station Group. The WB ended the season as the only broadcast network to post year-to-year increases in its key demographics and households.

CABLE NETWORKS--HBO

HBO had an all-time record EBITA of $131 million for the quarter, up 16%, compared to $113 million a year earlier. For the first six months of 1999, EBITA was a record $256 million, up 15% from $222 million in the same period a year ago. The results reflect increased subscription revenues for HBO and Cinemax, as well as improvements at Comedy Central. During the quarter, HBO launched two new multiplex channels--HBO Comedy and HBO Zone--as part of its multiplex package, HBO The Works, which now consists of six branded HBO channels.

CABLE

In the second quarter, Time Warner Cable posted an all-time record combined EBITA of $1.180 billion, up from $448 million a year ago. For the first six months of 1999, EBITA was an all-time record $1.583 billion versus $829 million in the same period a year ago. These results include net pretax gains for the second quarter of $771 million in 1999 and $70 million in 1998 relating to the sale or exchange of cable television systems and investments. For the six months, net pretax gains amounted to $771 million in 1999 and $84 million in 1998. After normalizing for the effects of these gainsand other significant cable-related transactions, Time Warner Cable reported a strong internal 1999 EBITA-growth rate of 11% for the second quarter and 10% for the first half of the year. Time Warner Inc.'s cable operations generated second-quarter EBITA of $81 million and six-month EBITA of $147 million. Time Warner Entertainment's cable operations posted second-quarter EBITA of $1.099 billion and six-month EBITA of $1.436 billion. The cable division's continuing solid double-digit growth reflects an increase in basic cable and advertising revenues. At the end of the second quarter, TimeWarner Cable served approximately 12.9 million subscribers, and passed 21.1 million homes, which is over 20% of total U.S. television households. At the end of the quarter, Road Runner, our jointly-owned high-speed online service, had approximately 320,000 subscribers.

Time Warner Inc. (NYSE: TWX, www.timewarner.com), the world's leading media company, consists of four businesses: cable networks, publishing, entertainment and cable.

Caution Concerning Forward-Looking Statements

This press release includes certain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are based on management's current expectations and are naturally subject to uncertainty and changes in circumstances. Actual results may vary materially from the expectations contained herein due to changes in economic, business, competitive and/or regulatory factors. More detailed information about those factors is set forth in Time Warner's most recent annual report on Form 10-Kand other filings with the Securities and Exchange Commission. Time Warner is under no obligation to (and expressly disclaims any such obligation to) update or alter its forward-looking statements whether as a result of new information, future events or otherwise.

To receive a copy of this press release through the Internet, access Time Warner's corporate website located at http://www.timewarner.com

Attachments: (1) Consolidated Statement of Operations (2) Notes to Statement of Operations

TIME WARNER INC.
CONSOLIDATED STATEMENT OF OPERATIONS
BY BUSINESS SEGMENT
(In millions, except per share amounts)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	1999	1998	1999	1998
Revenues:				
Publishing	$ 1,153	$ 1,136	$ 2,127	$ 2,084
Music	828	905	1,764	1,793
Cable Networks - TBS	1,065	906	1,903	1,634
Filmed Entertainment - TBS	337	504	654	876
Cable	216	242	438	490
Intersegment elimination	(25)	(21)	(46)	(68)
Total revenues	$ 3,574	$ 3,672	$ 6,840	$ 6,809
Business segment operating income before amortization of intangible assets:				
Publishing	$ 196	$ 176	$ 290	$ 261
Music	101	96	203	189
Cable Networks - TBS	235	198	419	351
Filmed Entertainment - TBS	71	38	100	23
Cable	81	74	147	148
Intersegment elimination	2	(1)	12	(20)
	686	581	1,171	952
Amortization of intangible assets	(191)	(197)	(381)	(398)
Business segment operating income	495	384	790	554
Equity in pretax income of Entertainment Group,				

substantially all TWE	793	166	1,135	273
Interest and other, net	(202)	(283)	(513)	(566)
Corporate expenses	(22)	(19)	(44)	(38)
	-------	-------	-------	-------
Income before income taxes	1,064	248	1,368	223
Income tax provision	(471)	(147)	(637)	(184)
	-------	-------	-------	-------
Net income	593	101	731	39
Preferred dividend requirements	(18)	(78)	(36)	(160)
	-------	-------	-------	-------
Net income (loss) applicable to common shares	$ 575	$ 23	$ 695	$ (121)
	=======	=======	=======	=======
Income (loss) per common share:				
Basic	$ 0.46	$ 0.02	$ 0.56	$ (0.10)
	=======	=======	=======	=======
Diluted	$ 0.43	$ 0.02	$ 0.54	$ (0.10)
	=======	=======	=======	=======
Average common shares:				
Basic	1,249.3	1,192.6	1,246.2	1,174.6
	=======	=======	=======	=======
Diluted	1,403.7	1,192.6	1,401.6	1,174.6
	=======	=======	=======	=======

ENTERTAINMENT GROUP
COMBINED STATEMENT OF OPERATIONS
BY BUSINESS SEGMENT
(In millions; unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	1999	1998	1999	1998
Revenues:				
Filmed Entertainment - Warner Bros	$ 1,446	$ 1,330	$ 2,826	$ 2,642
Broadcasting - The WB Network	83	61	162	106
Cable Networks - HBO	546	509	1,072	1,021
Cable	1,114	1,084	2,188	2,237
Intersegment elimination	(129)	(131)	(254)	(241)
	-------	-------	-------	-------
Total revenues	$ 3,060	$ 2,853	$ 5,994	$ 5,765
	=======	=======	=======	=======
Business segment operating income before amortization of intangible assets:				
Filmed Entertainment - Warner Bros	$ 132	$ 122	$ 478	$ 241
Broadcasting - The WB Network	(30)	(23)	(71)	(61)
Cable Networks - HBO	131	113	256	222
Cable	(167)	(183)	(392)	(347)
Minority interest	(233)	(82)	(301)	(146)
Corporate services	(18)	(18)	(36)	(36)
	-------	-------	-------	-------

Income before income taxes	794	173	1,134	296
Income tax provision	(27)	(17)	(55)	(32)
Net income	$ 767	$ 156	$ 1,079	$ 264

TIME WARNER INC. AND ENTERTAINMENT GROUP NOTES TO STATEMENTS OF OPERATIONS

Note 1: Basis of Presentation

Time Warner Inc. ("Time Warner") classifies its business interests into four fundamental areas: Cable Networks, consisting principally of interests in cable television programming; Publishing, consisting principally of interests in magazine publishing, book publishing and direct marketing; Entertainment, consisting principally of interests in recorded music and music publishing, filmed entertainment, television production and television broadcasting; and Cable, consisting principally of interests in cable television systems. A majority of Time Warner's interests in filmed entertainment, television production, television broadcasting and cable television systems, and a portion of its interests in cable television programming are held through Time Warner Entertainment Company, L.P. ("TWE"). Time Warner owns general and limited partnership interests in TWE consisting of 74.49% of the pro rata priority capital ("Series A Capital") and residual equity capital ("Residual Capital"), and 100% of the junior priority capital ("Series B Capital"). The remaining 25.51% limited partnership interests in the Series A Capital and Residual Capital of TWE are held by a subsidiary of MediaOne Group, Inc. ("MediaOne"). Time Warner does not consolidate TWE and certain related companies (the "Entertainment Group") for financial reporting purposes. No portion of TWE's net income for the six months ended June 30, 1999 and 1998 was allocated to the limited partnership interests.

Note 2: Comparability of Cable Operating Results

The Cable Division's operating results have been affected by a number of significant transactions that occurred in each period.

In 1999 and 1998, largely in an effort to enhance their geographic clustering of cable television properties, Time Warner and TWE sold or exchanged various cable television systems and investments. As a result of these transactions, the operating results of Time Warner's and TWE's Cable division include net pretax gains for the second quarter of $771 million in 1999 and $70 million in 1998. Net pretax gains for the first half of the year amounted to $771 million in 1999 and $84 million in 1998. Of such amounts, only$11 million of net pretax gains recognized in the second quarter of 1999 relate to Time Warner's wholly owned Cable division.

In addition, a number of significant transactions occurred in 1998 that further affected the comparability of the Cable Division's results. These transactions consist of (i) the transfer of Time Warner Cable's direct broadcast satellite operations to Primestar, Inc., a separate holding company, effective as of April 1, 1998, (ii) the formation of the Road Runner joint venture to operate and expand Time Warner Cable's and MediaOne's existing high-speed online businesses, effective as of June 30, 1998, (iii) the reorganization of Time Warner Cable's business telephony operations into a separate entity now named Time Warner Telecom Inc., effective as of July 1, 1998 and (iv) the formation of a joint venture in Texas that owns cabletelevision systems serving approximately 1.1 million subscribers, effective asof December 31, 1998. These transactions are all more fully described in Time Warner's consolidated financial statements included in its 1998 Annual Report on Form 10-K.

Note 3: Gain on Time Warner Telecom's Initial Public Offering

In May 1999, Time Warner Telecom Inc. ("Time Warner Telecom"), a competitive local exchange carrier that provides telephony services to businesses, completed an initial public offering of 20% of its common stock (the "Time Warner Telecom IPO"). Time Warner Telecom raised net proceeds of approximately $270 million, of which $180 million was paid to TWE in satisfaction of certain obligations. In turn, TWE used those proceeds to reduce its bank debt. In connection with the Time Warner Telecom IPO and certain related transactions, Time Warner recognized a pretax gain of approximately $115 million resulting from the dilution of its ownership interest in Time Warner Telecom from 61.98% to 48.21%. This gain has been included in interest and other, net, in Time Warner's 1999 consolidated statement ofoperations.

Note 4: Gain on Termination of MGM Video Distribution Agreement

In March 1999, Warner Bros. and Metro-Goldwyn-Mayer, Inc. ("MGM") terminated a long-term distribution agreement under which Warner Bros. had exclusive worldwide distribution rights for MGM/United Artists home video product. In connection with the early termination and settlement of this distribution agreement, Warner Bros. recognized a net pretax gain of approximately $215 million, which has been included in the 1999 operating results of TWE's Filmed Entertainment-Warner Bros. division.

Note 5: Income Taxes

The relationship between income before income taxes and income tax expense of Time Warner is affected by the amortization of goodwill and certain other financial statement expenses that are not deductible for income tax purposes. Income tax expense of Time Warner includes all income taxes related to its allocable share of partnership income and its equity in the income tax expense of corporate subsidiaries of the Entertainment Group.

Note 6: Income (Loss) per Common Share

Income (loss) per common share for all prior periods has been restated to give effect to a two-for-one common stock split that occurred on December 15,1998.

Basic income (loss) per common share is based upon the net income (loss) applicable to common shares after preferred dividend requirements and upon the weighted average of common shares outstanding during the period. Diluted income (loss) per common share adjusts for the effect of convertible securities, stock options and other potentially dilutive financial instruments only in the periods in which such effect would have been dilutive.

Note 7: Comparability of Income (Loss) per Common Share

As described more fully above, income (loss) per common share has been affected by certain significant, nonrecurring items recognized in 1999 and 1998. These items consist of net gains relating to the sale or exchange of various cable television systems and investments in both periods, a gain in the second quarter of 1999 relating to the Time Warner Telecom IPO and a gain in the first quarter of 1999 on the early termination and settlement of the MGM home video distribution agreement. The aggregate net effect of these items was to increase
CERRITOS, Calif., Jul 14, 1999 (BUSINESS WIRE via COMTEX) -- e-DMEC, Inc. (OTC BB:DMEC) is in the business of distributing and selling general merchandise and Internet services, and is pleased to announce the official opening of the e-commerce server.

All tests of data transfer and security have been completed making the e-commerce site ready to start accepting orders via the Internet. The e-commerce site http://www.e-DMEC.com is now able to accept product orders. Products available for sale at e-DMEC.com can be purchased using major credit cards over a secure Web site.

e-DMEC's alliances and individual private customers will receive drop-ship orders within approximately three business days on available product. Initially e-DMEC.com will showcase approximately 400 quality products. When additional business alliances are completed, e-DMEC plans to showcase more products and services.
Additionally, e-DMEC is in the process of making the server virtual for the next step in the aggressive efforts to become a fully functioning e-commerce company. e-DMEC is able to offer Web site design and Web-hosting to our alliances and clients.

e-DMEC would like to thank its shareholders for their support during these difficult times of delays and complications experienced during the launching of its e-commerce site. It is e-DMEC's policy to ensure, first and foremost, the security of the server.

"It is e-DMEC's privacy policy to refrain from selling, distributing, bartering or transferring any personally identifiable information obtained from a user of its server to a third party," stated James Lu, CEO Diamond Entertainment. "There will be no exceptions to this policy!"

The financial community will be updated in a timely manners as further developments occur.

Safe Harbor Act Disclaimer: This release may contain forward-looking statements that involve risks and uncertainties, including, without limitation, continued acceptance of the company's products and services, increased levels of competition, new products and technological changes, the company's dependence uponfinancing, third-party suppliers and intellectual property rights, and other risks detailed from time to time in the company's federal filings, annual report, offering memorandum, or prospectus.

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GEOGRAPHY: CALIFORNIA

INDUSTRY CODE: COMPUTERS/ELECTRONICS
COMED
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INDUSTRY NAMES: ELECTRONIC COMMERCE; INTERNET; COMMUNICATIONS TECHNOLOGIES ; COMPUTERS
EVENT NAMES: TECHNOLOGY DEVELOPMENT
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